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THE CASE

AGAINST

PROFESSOR BRIGGS

I. The Charges and Specifications submitted to the Presbytery of New York, October 5, 1891.

II. Response of Professor Briggs to the Charges and Specifications, November 4, 1891.

III. The Action of the Presbytery of New York in Dismissing the Case.

IV. The Complaint to the Synod of New York against the Presbytery of New York for its Decision of the Question of the Original Party of Prosecution, November 13, 1891.

V. The Appeal of the so-called Prosecuting Committee to the General Assembly of the Presbyterian Church in the United States of America, November 13, 1891.

VI. The Argument of Professor Briggs before the General Assembly against Entertaining the Appeal, May 26, 1892.

VII. The Entertainment of the Appeal, May 27, 1892.

VIII. The Argument of Professor Briggs before the General Assembly against sustaining the Appeal, May 27 and 28, 1892.

IX. The Action of the General Assembly in sustaining the Appeal and Reversing the Dismissal of the Case.

NEW YORK

CHARLES SCRIBNER'S SONS

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PREFACE

In response to many requests, it has been thought best to publish the official papers in the case against Professor Briggs on account of his Inaugural Address on the Authority of Holy Scripture; and the arguments of Professor Briggs before the Presbytery of New York and the General Assembly of the Presbyterian Church in the United States of America.

June 24, 1892.

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I.

CHARGES AND SPECIFICATIONS SUBMITTED TO THE PRESBYTERY OF NEW YORK, OCTOBER 5TH, 1891.

The Committee of Prosecution, in the case of Dr. Briggs, appointed in compliance with Section 11 of the Book of Discipline, at the meeting of Presbytery in May last, report as follows:

Inasmuch as four of their number were absent in the performance of their duties as commissioners at the session of the General Assembly held at Detroit, and as Dr. Briggs had sailed for Europe, to be absent until autumn, they made a report of progress at the meeting of Presbytery in June, indicating their intention of presenting the charges and specifications at the meeting of Presbytery in October.

The Committee have decided to base charges and specifications upon what is contained in Dr. Briggs' inaugural address alone. Their reasons for adopting this course are as follows:

I. By direction of the Presbytery, the inaugural address was the original subject of inquiry by the Committee of Presbytery appointed on April 13, 1891, and it was upon the report of that Committee that a judicial investigation was instituted.

II. Because of the recent publication of the inaugural address. In this way any objection which might be made, under the limitation of Section 117, of the Book

of Discipline, as to the length of time which has elapsed since the publication of earlier works, has been avoided.

III. Because the inaugural address may be regarded as the most deliberate and emphatic expression of Dr. Briggs' doctrine, and therefore representing most fairly his position with respect to those doctrines upon which the charges and specifications are based. Since the inaugural address was first delivered and published, it has been widely criticised, but in spite of these criticisms, a second edition has been published, in which all the doctrines set forth in the first edition are presented without modification, being rather reaffirmed and emphasized in a preface and in an appendix.

IV. Because of the vital importance of the doctrines with which the inaugural address deals.

V. Because the address was delivered as an introduction to a course of lectures on Biblical theology, and is therefore to be taken as a formal declaration of the Professor's attitude with respect to some of the more important subjects in his new department.

It has been decided by your Committee that it is neither necessary nor advisable to embrace in the list of charges all the doctrinal errors contained in the inaugural address, and, while its teachings respecting miracles, the original condition of man, the nature of sin, race redemption, and Dr. Briggs' scheme of Biblical theology in general, are not in harmony with the Scriptures, and are calculated to weaken confidence in the Word of God, and to encourage presumption on the clemency and long-suffering of God, yet in order that we may avoid an undue extension of the trial, and the confusion of thought that might follow an attempt to compass all the errors contained in said address, we

have deemed it best to confine attention to a few departures from the teachings of the Scriptures which are fundamental to the entire discussion.

Furthermore, your Committee is not unmindful of the fact that the erroneous and ill-advised utterances of Dr. Briggs in the inaugural address have seriously disturbed the peace of the Church and led to a situation full of difficulty and complication, and have produced such widespread uneasiness and agitation throughout the Church as to cause sixty-three Presbyteries to overture the General Assembly with reference to the same, yet for the reasons above given we have determined not to include this grave offence against the peace of the Church in the list of formal charges.

The Committee present the following charges and specifications, which, in compliance with the provisions of Section 10, of the Book of Discipline, it becomes their duty to prosecute in the name and by the authority of the Presbyterian Church in the United States of America.

Charge I.

The Presbyterian Church in the United States of America charges the Reverend Charles A. Briggs, D.D., being a Minister of the Presbyterian Church, and a member of the Presbytery of New York, with teaching doctrines which conflict irreconcilably with and are contrary to the cardinal doctrine taught in the Holy Scriptures and contained in the Standards of the Presbyterian Church, that the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice.

These hurtful errors, striking at the vitals of religion, and contrary to the regulations and practice of the Presbyterian Church, were promulgated in an inaugu-

ral address which Dr. Briggs delivered at the Union Theological Seminary in the city of New York, January 20th, 1891, on the occasion of his induction into the Edward Robinson Chair of Biblical Theology, which address has, with Dr. Briggs' approval, been published and extensively circulated, and republished in a second edition with a preface and an appendix.

SPECIFICATION I.

Dr. Briggs declares that "there are historically three great fountains of divine authority—the Bible, the Church, and the Reason"—thus making the Church and the Reason each to be an independent and sufficient fountain of divine authority.

INAUGURAL ADDRESS.

Page 25, "The majority of Christians from the apostolic age have found God through the Church. Martyrs and saints, fathers and schoolmen, the profoundest intellects, the saintliest lives, have had this experience."

Page 26, "Nevertheless, the Church is a seat of divine authority, and the multitudes of pious souls in the present and the past have not been mistaken in their experience when they have found God in the Church."

Page 26, "Another means used by God to make Himself known is the forms of the Reason, using Reason in a broad sense to embrace the metaphysical categories, the conscience and the religious feeling. Here, in the Holy of Holies of human nature, God presents Himself to those who seek Him."

Page 28, "We have examined the Church and the Reason as seats of divine authority in an introduction

to our theme, the *Authority of the Scriptures*, because they open our eyes to see mistakes that are common to the three departments. Protestant Christianity builds its faith and life on the divine authority contained in the Scriptures, and too often depreciates the Church and the Reason."

Page 86, "But preferring to use my limited time in opposing the depreciation of the Church and the Reason, too often characteristic of Protestants; and in an effort briefly to state, as a fact of history, that these are sources of divine authority."

These declarations are contrary to the Scripture: Is. viii. 20; Ps. cxix. 96; Gal. i. 8, 9; Matt. iv. 4, 7, 10; v. 19; vii. 24; xxii. 29, 31, 36, 40; Mark vii. 7, 13; Acts vii. 38; xvii. 11; 1 Pet. iv. 11; 1 John v. 10; Luke i. 3, 4; 2 Pet. i. 19, 21; Gal. iii. 8 to 16; John v. 39; Deut. iv. 2; xii. 32; Rev. xxii. 19; Jer. xxiii. 22; viii. 8, 9; Rom. iii. 2; Acts xviii. 28.

These declarations are contrary to our Standards:

Confession of Faith, Chap. I., Secs. I., II., VIII., X. Larger Catechism, 2 and 3. Shorter Catechism, 2.

SPECIFICATION II.

Dr. Briggs affirms that, in the case of some, the Holy Scriptures are not sufficient to give that knowledge of God and His will, which is necessary unto salvation, even though they strive never so hard; and that such persons, setting aside the supreme authority of the word of God, can obtain that saving knowledge of Him through the Church.

INAUGURAL ADDRESS.

Page 25, "But what shall we say of a modern like Newman, who could not reach certainty, striving never

so hard, through the Bible or the Reason, but who did find divine authority in the institutions of the Church."

Page 28, "Spurgeon is an example of the average modern Evangelical, who holds the Protestant position, and assails the Church and Reason in the interest of the authority of Scripture. But the average opinion of the Christian world would not assign him a higher place in the kingdom of God than Martineau or Newman."

These declarations are contrary to the Scripture: 2 Tim. iii. 15 to 17; James i. 18; Ephe. ii. 20; Ps. cxix. 105, 130; Luke xvi. 31; John xiv. 6; xx. 31; 2 Tim. i. 9, 10; 2 Thess. ii. 13; 1 Thess. ii. 13; John vi. 45.

These declarations are contrary to our Standards:

Confession of Faith, Chap. I., Secs. I., V., VI., VII.

SPECIFICATION III.

Dr. Briggs affirms that some (such as James Martineau, who denies the doctrines of the Holy Trinity, the Incarnation, the Atonement, the Resurrection of the Body, the personality of the Holy Ghost, who rejects the miracles of the Bible and denies the truth of the Gospel narratives, as well as most of the theology of the Epistles), to whom the Holy Scripture is not sufficient to give that knowledge of God, and of His Will, which is necessary unto salvation, may turn from the Supreme Authority of the Word of God and find that knowledge of Him through the Reason.

INAUGURAL ADDRESS.

Page 27, "Martineau could not find divine authority in the Church or the Bible, but he did find God enthroned in his own soul. There are those who would refuse these Rationalists a place in the company of the

faithful. But they forget that the essential thing is to find God and divine certainty, and if these men have found God without the mediation of Church and Bible, Church and Bible are means and not ends; they are avenues to God, but are not God. We regret that these Rationalists depreciate the means of grace so essential to most of us, but we are warned lest we commit a similar error, and depreciate the Reason and the Christian consciousness."

Page 28, "Spurgeon is an example of the average modern Evangelical, who holds the Protestant position, and assails the Church and Reason in the interest of the authority of Scripture. But the average opinion of the Christian world would not assign him a higher place in the kingdom of God than Martineau or Newman. May we not conclude, on the whole, that these three representative Christians of our time, living in or near the world's metropolis, have, each in his way, found God and rested on divine authority?"

These declarations are contrary to the Scripture: 1 John v. 10; John xiv. 6; Acts iv. 12; viii. 32 to 35; x. 43; 1 Cor. ii. 13, 14; Ephe. ii. 20; Rom. xvi. 25, 26; James i. 18; Matt. xxii. 29; 1 Cor. i. 19 to 21.

These declarations are contrary to our Standards:

Confession of Faith, Chap. I., Secs. I., V., VI., VII.

SPECIFICATION IV.

Dr. Briggs asserts that the temperaments and environments of men determine which of the three ways of access to God they may pursue.

INAUGURAL ADDRESS.

Page 28, "May we not conclude, on the whole, that these three representative Christians of our time, living

in or near the world's metropolis, have, each in his way, found God and rested on divine authority? May we not learn from them not to depreciate any of the means whereby God makes Himself known to men? Men are influenced by their temperaments and environments which of the three ways of access to God they may pursue."

This statement is contrary to the Scripture: 1 Pet. i. 23, 25; Gal. i. 8, 9; John xiv. 6.

This statement is contrary to our Standards:

Confession of Faith, Chap. I., Secs. I., VI.

SPECIFICATION V.

Dr. Briggs makes statements in regard to the Holy Scriptures which cannot be reconciled with the doctrine of the true and full inspiration of those Scriptures as the "Word of God written."

INAUGURAL ADDRESS.

Page 30, "The Bible, as a book, is paper, print, and binding—nothing more. It is entitled to reverent handling for the sake of its holy contents, because it contains the divine word of redemption for man, and not for any other reason whatever."

Page 31, "There is nothing divine in the text—in its letters, words, or clauses. There are those who hold that thought and language are as inseparable as body and soul. But language is rather the dress of thought. A master of many languages readily clothes the same thought in half a dozen different languages. The same thought in the Bible itself is dressed in different literary styles, and the thought of the one is as authoritative as the other. The divine authority is not in the style or in the words, but in the concept, and so the divine

power of the Bible may be transferred into any human language. The divine authority contained in the Scriptures speaks as powerfully in English as in Greek, in Choctaw as in Aramaic, in Chinese as in Hebrew. We force our way through the language and the letter, the grammar and the style, to the inner substance of the thought, for there, if at all, we shall find God."

Page 34, "It is not a pleasant task to point out errors in the sacred Scriptures. Nevertheless, Historical Criticism finds them, and we must meet the issue whether they destroy the authority of the Bible or not."

Pages 35–36, "I shall venture to affirm that, so far as I can see, there are errors in the Scriptures that no one has been able to explain away; and the theory that they were not in the original text is sheer assumption, upon which no mind can rest with certainty. If such errors destroy the authority of the Bible, it is already destroyed for historians. Men cannot shut their eyes to truth and fact. But on what authority do these theologians drive men from the Bible by this theory of inerrancy? The Bible itself nowhere makes this claim. The creeds of the Church nowhere sanction it. It is a ghost of modern evangelicalism to frighten children. The Bible has maintained its authority with the best scholars of our time, who with open minds have been willing to recognize any error that might be pointed out by Historical Criticism; for these errors are all in the circumstantials and not in the essentials; they are in the human setting, not in the precious jewel itself; they are found in that section of the Bible that theologians commonly account for from the providential superintendence of the mind of the author, as distinguished from divine revelation itself. It may be that this providential superintendence gives infallible guidance in every particular; and it may

be that it differs but little, if at all, from the providential superintendence of the fathers and schoolmen and theologians of the Christian Church. It is not important for our purpose that we should decide this question. If we should abandon the whole field of providential superintendence so far as inspiration and divine authority are concerned and limit divine inspiration and authority to the essential contents of the Bible, to its religion, faith, and morals, we would still have ample room to seek divine authority where alone it is essential, or even important, in the teaching that guides our devotions, our thinking, and our conduct."

Page 95, "I have not taken a brief to prove the errancy of Scripture. Conservative men should hesitate before they force the critics in self-defence to make a catalogue of errors in the Bible. It is not my place to distinguish between the essential and the non-essential contents of the Bible. The errors are in the only texts we have, and every one is forced to recognize them."

These statements are contrary to the Scriptures: Heb. i. 1, 2; Acts i. 16; iii. 18; 1 Cor. ii. 13; 2 Pet. i. 20, 21; 2 Tim. iii. 16; Rom. ix. 17; Mark xii. 36; Acts vii. 38; xxviii. 25; 2 Sam. xxiii. 2; Ps. xix. 7; cxix. 142, 160; Dan. x. 21; Num. xxiii. 19; Luke i. 1 to 4; John xvii. 17; Rom. xv. 3, 4; 1 Thess. ii. 13; Matt. v. 17 to 19; Heb. xii. 27; Gal. iii. 16; John x. 34 to 36; Is. viii. 20; 1 Pet. i. 23, 25; Acts xxiv. 14.

These statements are contrary to our Standards:

Confession of Faith, Chap. I., Secs. I., II., IV., V., VIII., IX.; Chap. XIV., Sec. II.

SPECIFICATION VI.

Dr. Briggs asserts that Moses is not the author of the

Pentateuch, and that Isaiah is not the author of half of the book which bears his name.

INAUGURAL ADDRESS.

Page 33, "It may be regarded as the certain result of the science of the Higher Criticism that Moses did not write the Pentateuch."

Page 33, "Isaiah did not write half of the book that bears his name."

These statements are contrary to Scripture: Ex. xxiv. 3, 4; Num. xxxiii. 2; Deut. xxxi. 9, 22; Josh. i. 7, 8; viii. 31; 1 Kings ii. 3; 2 Kings xxi. 8; Ezra iii. 2, 6; vi. 18; Neh. i. 7, 8; viii. 1, 14, 15; x. 29 to 39; xiii. 1; 1 Chron. vi. 49; Dan. ix. 11, 13; Matt. xix. 7, 8; Mark vii. 10; Luke xxiv. 27, 44; xx. 28, 37; John i. 45; v. 45 to 47; vii. 19, 23; Rom. x. 19; Acts iii. 22; vii. 37, 38; xv. 21; Matt. xii. 17, 18; Luke iii. 4; iv. 17, 18; John xii. 38, 41; Rom. x. 16, 20.

These statements are contrary to our Standards:

Confession of Faith, Chap. I., Secs. VIII., IX.

SPECIFICATION VII.

Dr. Briggs teaches that predictive prophecy has been reversed by history, and that much of it has not and never can be fulfilled.

INAUGURAL ADDRESS.

Page 38, "Another barrier to the Bible has been the interpretation put upon *Predictive Prophecy*, making it a sort of history before the time, and looking anxiously for the fulfillment of the details of Biblical prediction. Kuenen has shown that if we insist upon the fulfillment of the details of the predictive prophecy of the Old Testament, many of these predictions have been reversed

by history; and the great body of the Messianic prediction has not only never been fulfilled, but cannot now be fulfilled, for the reason that its own time has passed forever."

These statements are contrary to the Scriptures: Ps. cv. 8; Matt. ii. 5, 6, 17, 18, 23; v. 17, 18; xxi. 4, 5; xxiv. 15; Dan. xii. 11; Matt. iii. 3; xxvi. 54, 56; xxvii. 9, 35; Mark xv. 28; Luke iv. 21; xvi. 17; xviii. 31; xxi. 22; xxiv. 26, 27, 44; John xviii. 32; xix. 24; xii. 16; 1 Pet. i. 10, 11; Acts iii. 18; 2 Pet. i. 19.

These statements are contrary to our Standards:

Confession of Faith, Chap. I., Secs. IV., V. Shorter Catechism, 4.

CHARGE II.

The Presbyterian Church in the United States of America charges the Reverend Charles A. Briggs, D.D., being a Minister of the Presbyterian Church and a member of the Presbytery of New York, with teaching a doctrine of the character, state, and sanctification of believers after death, which irreconcilably conflicts with and is contrary to the Holy Scriptures and the Standards of the Presbyterian Church.

SPECIFICATION.

In the said inaugural address, delivered, published, extensively circulated and republished as above described, Dr. Briggs teaches as follows:

INAUGURAL ADDRESS.

Pages 53, 54, 55, "Another fault of Protestant theology is in its limitation of the process of redemption to this world, and its neglect of those vast periods of time which have elapsed for most men in the Middle State between death and the resurrection. The Roman Cath-

olic Church is firmer here, though it smears the Biblical doctrine with not a few hurtful errors. The reaction against this limitation, as seen in the theory of second probation, is not surprising. I do not find this doctrine in the Bible, but I do find in the Bible the doctrine of a Middle State of conscious higher life in the communion with Christ and the multitude of the departed of all ages; and of the necessity of entire sanctification, in order that the work of redemption may be completed. There is no authority in the Scriptures, or in the creeds of Christendom, for the doctrine of immediate sanctification at death. The only sanctification known to experience, to Christian orthodoxy, and to the Bible, is progressive sanctification. Progressive sanctification after death, is the doctrine of the Bible and the Church; and it is of vast importance in our times that we should understand it, and live in accordance with it. The bugbear of a judgment immediately after death, and the illusion of a magical transformation in the dying hour should be banished from the world. They are conceits derived from the Ethnic religions, and without basis in the Bible or Christian experience as expressed in the symbols of the Church. The former makes death a terror to the best of men, the latter makes human life and experience of no effect; and both cut the nerves of Christian activity and striving after sanctification. Renouncing them as hurtful, unchristian errors, we look with hope and joy for the continuation of the processes of grace, and the wonders of redemption in the company of the blessed, to which the faithful are all hastening."

Inaugural Address, Appendix, 2d ed., pages 107, 108, "Sanctification has two sides—a negative and a positive—mortification and vivification; the former is man-

ward, the latter is Godward. Believers who enter the middle state enter guiltless; they are pardoned and justified; they are mantled in the blood and righteousness of Christ; and nothing will be able to separate them from His love. They are also delivered from all temptations such as spring from without, from the world and the devil. They are encircled with influences for good such as they have never enjoyed before. But they are still the same persons, with all the gifts and graces, and also the same habits of mind, disposition, and temper they had when they left the world. Death destroys the body. It does not change the moral and religious nature of man. It is unpsychological and unethical to suppose that the character of the disembodied spirit will all be changed in the moment of death. It is the Manichean heresy to hold that sin belongs to the physical organization and is laid aside with the body. If this were so, how can any of our race carry their evil natures with them into the middle state and incur the punishment of their sins? The eternal punishment of a man whose evil nature has been stripped from him by death and left in the grave, is an absurdity. The Plymouth Brethren hold that there are two natures in the redeemed—the old man and the new. In accordance with such a theory, the old man might be cast off at death. But this is only a more subtile kind of Manicheism, which has ever been regarded as heretical. Sin, as our Saviour teaches, has its source in the heart—in the higher and immortal part of man. It is the work of sanctification to overcome sin in the higher nature."

This doctrine is contrary to the Scripture: John i. 29; Luke xvi. 22, 26; 2 Cor. v. 1 to 10; Matt. xxvi. 41; 1 John iii. 2, 9, 10; 1 Tim. iv. 7, 8; Rev. iii. 4, 5; vii. 9,

13, 14; xiv. 13; xix. 8; Heb. xii. 23; Eph. v. 26, 27; 1 Cor. xv. 51, 52; 1 Thess. iv. 16, 17; Eph. iii. 15, 16.

This doctrine is contrary to our Standards:

Confession of Faith, Chap. XXXII., Sec. I. Larger Catechism, 86. Shorter Catechism, 37.

Your Committee recommend that in compliance with the provisions of Section 19 of the Book of Discipline, a copy of the charges and specifications be now served upon Dr. Briggs, and that a citation, signed in the name of the Presbytery by the Moderator or Clerk, be personally served upon Dr. Briggs, citing him to appear and plead to said charges and specifications at an early day.

II.

RESPONSE OF PROF. BRIGGS TO THE CHARGES AND SPECIFICATIONS, NOV. 4TH, 1891.

MR. MODERATOR, MINISTERS, AND ELDERS OF THE PRESBYTERY OF NEW YORK:

GENTLEMEN: I appear before you at this time in compliance with your citation, dated October 6, 1891, to plead to the charges and specifications placed in my hands by the Presbytery at that time. It is now my right, in accordance with the Book of Discipline, § 22, to "file objections," if I have any, "to the regularity of the organization, or to the jurisdiction of the judicatory, or to the sufficiency of the charges and specifications in form and in legal effect, or any other substantial objection affecting the order or regularity of the proceeding."

I have no objections to the regularity of the organization, or to the jurisdiction of the Presbytery of New York; but it is necessary, both in my own interest and in the interest of the order and regularity of the judicial proceedings in the Presbytery, to file objections "to the sufficiency of the charges and specifications in form" and "in legal effect."

It is far from my purpose to raise any objections of a technical kind, that may in any way directly or indirectly delay the probation of charges that are approved as sufficient, and specifications that are recognized as relevant by the Presbytery of New York; but the order of the Book of Discipline requires that the

question of *relevancy* should first be decided by the Presbytery, before I can with propriety plead "guilty," or "not guilty."

No one has made this clearer than the Rev. E. R. Craven, D.D., the chairman of the Committee of the General Assembly which prepared the present Book of Discipline, when he said:

"In every trial there are two issues: first, do the facts alleged, if true, sustain the charge? and, second, are the facts true? Ordinarily the affirmative of the former question is tacitly assumed by both the judicatory and the accused person. In such cases the only question to be decided is the latter. Cases sometimes arise, however, especially where there is an individual prosecutor, in which both issues must be tried. They cannot, with propriety, be tried together, for one is a question of law, the other of evidence. In such cases it is manifest wisdom to dispose of the legal question first, and thus possibly prevent a useless waste of time and laceration of feeling."—*Presbyterian Review*, 1884, p. 57.

Adopting the course thus recommended, I do hereby file the following objections to the "sufficiency of the charges and specifications in form and in legal effect."

I.—THE PREAMBLE.

The Report of the Committee of the Presbytery, which presented the charges and specifications, contains in its preamble, intimation of charges and specifications which they have not proposed for trial, as follows:

"It has been decided by your committee that it is neither necessary nor advisable to embrace in the list of charges all the doctrinal errors contained in the inaugural address, and, while its teachings respecting miracles, the original condition of man, the nature of sin, race redemption, and Dr. Briggs' scheme of Biblical theology in general, are not in harmony

with the Scriptures, and are calculated to weaken confidence in the Word of God, and to encourage presumption on the clemency and long-suffering of God, yet in order that we may avoid an undue extension of the trial, and the confusion of thought that might follow an attempt to compass all the errors contained in said address, we have deemed it best to confine attention to a few departures from the teachings of the Scriptures which are fundamental to the entire discussion.

"Furthermore, your committee is not unmindful of the fact that the erroneous and ill-advised utterances of Dr. Briggs in the inaugural address have seriously disturbed the peace of the Church and led to a situation full of difficulty and complication, and have produced such wide-spread uneasiness and agitation throughout the Church as to cause sixty-three Presbyteries to overture the General Assembly with reference to the same, yet for the reasons above given we have determined not to include this grave offence against the peace of the Church in the list of formal charges" (pp. 4, 5).

I object (1) that, if there are any such errors contained in my inaugural address as the committee allege in the preamble of their Report, it was their duty to formulate them into charges and specifications sufficient in form and in legal effect.

(2). That, if the committee did not think best so to do, they should have refrained from alleging doctrinal errors which they did not propose to submit to probation, and which so alleged without opportunity of refutation, seem calculated to exert prejudice against me in the minds of the members of the court.

(3). That, if, as the Report alleges, "The erroneous and ill-advised utterances of Dr. Briggs in the inaugural address have seriously disturbed the peace of the Church," and, these constitute a "grave offence against the peace of the Church," it was the duty of the committee to formulate this grave offence into a charge and specification "sufficient in form and legal effect."

(4). That, if it was not deemed best so to do, the Report should have refrained from alleging a grave offence which was not proposed for probation, the allegation of which might prejudice the decision of those charges and specifications offered for probation.

The Presbytery are requested therefore to blot out from the Report these insinuations and imputations of doctrinal errors and grave offence.

If I have in any way, directly or indirectly, been the occasion of disturbing the peace of the Church, I deeply regret it. If I have given pain and anxiety to my brethren in the ministry, or to the people of Christ's Church, by any utterances in the inaugural address, I am very sorry. But after repeated rereadings of the address, away from the seat of strife, in a foreign land, I cannot honestly say that there are any such doctrinal errors in the address as the Report alleges, and at the bar of my own conscience, I feel no guilt as regards the grave offence of disturbing the peace and harmony of the Church.

II.—THE CHARGES.

I object "to the sufficiency of the *Charges*" "in form" and "legal effect."

The rules relating to the charge in the Book of Discipline are: (1). "The charge shall set forth the alleged offence" (§ 15); (2). "A charge shall not allege more than one offence" (§ 16); (3). The supreme court of the Church has decided that "All charges for heresy should be as definite as possible. The article or articles of faith impugned should be specified, and the words supposed to be heretical shown to be in repugnance to these articles; whether the reference is made directly to the Scripture as a standard of orthodoxy; or to the

Confession of Faith, which our Church holds to be a summary of the doctrines of Scripture" (*Craighead Case*, 1824, p. 121).

I object that the charges comply with none of the rules.

(1). *Charge I. sets forth "more than one offence."* It alleges "teaching *doctrines* which conflict irreconcilably with, and are contrary to, the cardinal doctrine taught in Holy Scripture," etc. (p. 5). If, as alleged, more than one doctrine, or a plurality of doctrines is taught, which conflict with a cardinal doctrine of Holy Scripture, there is a plurality of offences and each one of these cardinal offences should be mentioned in a separate charge. Charge I. alleges several offences.

(2). *Charge I. does not "set forth the alleged offence."* It alleges "teaching doctrines that conflict with, and are contrary to," etc. It does not specify what doctrine it is, or what doctrines these are which "conflict irreconcilably with, and are contrary to the cardinal doctrine." I object (*a*), that I cannot with propriety plead guilty, or not guilty, to teaching such doctrines, until I know what doctrines the prosecution have in mind.

(*b*). So far as I know, I have never taught any doctrines that conflict with a cardinal doctrine of Holy Scripture. It is conceivable that I may be mistaken, and that I might acknowledge my error if such doctrines were specified by the prosecution.

(*c*). The charge is so general, vague, and obscure, that it comprehends any and every reason that any one may find for judging that my teachings are contrary to my ordination vow, "that the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice"; and thus enables the jurors to vote for

my condemnation, one for one reason, another for a second reason, a third for a third reason, and so on, securing by the cumulation of votes for different reasons, a judgment that might not be secured if each reason were proved and voted upon by itself.

(3). *The charges are not specific and definite.* It is true that Charge I. is so far definite that it alleges the cardinal doctrine that "the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice"; as that doctrine with which the doctrines taught by me are in irreconcilable conflict. This implies that I have taught some other doctrine than said cardinal doctrine. But the Charge is not definite and specific in that it fails to define what doctrine it is that has been taught in the inaugural address, that is in conflict with, and contrary to, said cardinal doctrine.

Charge II. is less general and vague than Charge I., for whereas Charge I. alleges "teaching doctrines" which conflict; Charge II. alleges teaching "a doctrine of the character, state, and sanctification of believers after death" (p. 39), which irreconcilably conflicts; but this latter is yet indefinite and vague, for the reason that it does not define what precise doctrine it is, out of the many different doctrines taught by theologians in this department of Eschatology, that is an offence. Charge II. while more specific than Charge I. in its reference to the doctrine taught by Dr. Briggs, is more seriously at fault than Charge I., in that Charge I. mentions the cardinal doctrine that "the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice," but Charge II. does not state what doctrine it is of Holy Scripture or of the Westminster Confession with which the doctrine taught by me is in irreconcilable conflict.

I would be entirely willing to waive this objection to the charges as not specific and definite, if this were the only ground of objection and there were any proper way of reaching definite charges by means of the specifications. But this way out of the difficulty is closed against us, as we shall soon see. I am obliged in the interest of the orderly procedure, in a case which is subject to the review of a superior and of a supreme court, to file this objection, even if it be less serious than others which are now to be adduced.

(4). I object to the sufficiency of Charge II. for the reason that *it does not indicate that the offence charged is against an essential and necessary article of the system of doctrine contained in the Westminster Confession.* The Law of the Church as expressed in the Book of Discipline (§ 4) is, that—

"Nothing shall therefore be the object of judicial process, which cannot be proved to be contrary to the Holy Scriptures, or to the regulations and practice of the Church founded thereon; nor anything which does not involve those evils which Discipline is intended to prevent."

In the second term of subscription, the offence in doctrine is limited as follows: "Do you sincerely receive and adopt the Confession of Faith of this Church, as containing the system of doctrine taught in the Holy Scriptures?" This subscription is in accordance with tne Adopting Act of 1729, which requires subscription to the Confession of Faith and Catechisms, "as being in all the essential and necessary articles, good forms of sound words and systems of Christian doctrine." The supreme court of the Church, in the Harker case, 1765, defined this when it said, "essential to the system of doctrine contained in our Westmin-

ster Confession of Faith considered as a system." These regulations and decisions of the supreme court of the Presbyterian Church require that nothing shall be considered as an offence which is not contrary to an essential and necessary article of the Westminster Confession. Charge I. complies with this rule in so far as it represents that the doctrine "that the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice" is a "cardinal doctrine"; but Charge II. does not comply with the regulations of the Church, in that it neglects to state what cardinal doctrine, or what essential and necessary article, of the Westminster Confession of Faith it is with which the doctrine taught by me is in irreconcilable conflict.

When these two charges are placed side by side, the one exposes the faults of the other, and convicts it of insufficiency. Each is insufficient where the other is sufficient. Each is indefinite and vague where the other is more definite and specific. Charge I. defines the doctrine to which the doctrines taught by me are opposed; Charge II. makes no statement at all of any doctrine of Scripture or Confession to which my teachings are opposed. Charge II. mentions a general group of doctrines taught by me which, it is claimed, is opposed to Scripture and Confession, but Charge I. makes no definition whatever of any doctrines taught by me. Charge II. alleges one offence where Charge I. alleges several. Charge I. states cardinal doctrine where Charge II. makes no mention of cardinal doctrine. *Charges I. and II. are therefore "insufficient in form and legal effect."*

III.—THE SPECIFICATIONS.

I object to the Specifications as irrelevant, "insufficient in form and legal effect," for the following reasons:

The law of the specification as given in the Book of Discipline is that "*The specifications shall set forth the facts relied upon to sustain the charge*" (§ 15). The committee seem to have an indefinite conception of the nature of specifications. Some of the specifications seem to have been framed as if they were particular items of the general charge, others as if they were particulars of a still more general charge than that alleged in Charge I., and still others as if they were striving to state the facts required by the rule for specifications in our Book of Discipline. Lest there should be obscurity in the minds of the members of the court on this point, I shall take the liberty of citing from that ancient and classic authority in Presbyterian law, upon which the American Book of Discipline is based. The Libel in the Scottish law-books comprehends the three parts—charge, specification, and judgment.

"A Libel is a Law Syllogism, consisting of the Proposition or Relevancy, which is founded upon the Laws of God, or some Ecclesiastical Constitution agreeable thereto, as, whosoever is absent from publick Divine Service on the Lord's Day, ought to be censured. The second Part consists of the subsumption or probation, which condescends on matter of Fact, viz., But such a person did, upon such or such a Lord's Day, absent unnecessarily from the publick Worship of God. The third Part consists of the Conclusion or Sentence, which contains a Desire, that the Profaner of the Lord's Day, according to the Laws and Customs mentioned in the first part, may be Censured."—Walter Stewart, "*Collections and Observations concerning the Worship, Discipline, and Government of the Church of Scotland*," p. 268.

The Standard Authority of the Church of Scotland at the present time gives a similar statement:

"The body of the libel consists of three parts, which together should form a regular syllogism. The first, or major proposi

tion, sets forth the criminality of the *species facti* charged, and alleges the guilt of the accused; the second, or minor, narrates the *facts* of the particular offence; and the third, or conclusion, deduces the justice of punishing the individual offender. The major proposition should be made as brief and comprehensive as possible. By overloading it, the logical structure of the libel is impaired, and unnecessary discussions on relevancy may be raised. It may be difficult to bring ecclesiastical offences under specific and generic names to the degree in which crimes are classified in the civil law. But it is desirable that this should be done as far as possible, in order to facilitate certainty and simplicity in the criminal proceedings of church courts. Where it is necessary to use circumlocution in expressing the general nature of the offence, nothing should be introduced which is not essential to the criminal charge. Where it is impossible, from the nature of the offence, to bring it under any generic denomination, the particular offence intended to be charged should be set forth in the major as criminal in the abstract, and should be repeated in the minor as having been committed by the accused at a certain time and place."—Cook, "*Styles of Writs, Forms of Procedure, and Practice of the Church Courts of Scotland*," pp. 119, 120.

The Standard Authority of the Free Church of Scotland is in entire accord therewith:

"It has been established by long practice that no judicial process of a serious kind can be carried out against a minister or a probationer, except by the use of what is called a Libel. This is a document consisting of three parts, and forming a regular syllogism. The first, or major proposition, sets forth the nature of the alleged offence, declares its contrariety to the Word of God and the laws of the Church, and indicates the kind of consequences which ought to follow from it. The second, or minor proposition, asserts the guilt of the minister or probationer, and specifies what are believed to be the leading facts involving guilt, and particularizing time, place, and other circumstances. This proposition may contain one or more counts of indictment. The third part connects the major and minor propositions together, and thereby deduces the conclu-

sion that the minister or probationer, as guilty of the offence mentioned in the major proposition, ought to be subjected to the consequences, provided the minor proposition be made good, either by confession or by adequate evidence. It is of great importance that care be taken to frame the Libel with accuracy, so as to avoid grounds for questioning its relevancy." —Sir Henry Moncrieff, "*The Practice of the Free Church of Scotland*," pp. 118, 119.

The rules of our Book of Discipline are based upon the practice of the Church of Scotland. The charge corresponds with the first, or major proposition of the Libel; the specification corresponds with the second, or minor proposition; the sentence, with the third part or conclusion. It is essential that the minor premise, or the specification, should be relevant to the major proposition, or the charge; otherwise a person may be judged innocent or guilty of a charge with which the facts adduced have no manner of relevancy, and sentenced to unrighteous suffering. A Presbytery cannot with propriety enter upon the probation of a specification, which specification if proven would not substantiate the charge.

With these preliminary statements I shall now proceed to file objections to the relevancy of the specifications.

I.—SPECIFICATION OF CHARGE II.

I prefer to dispose first of the single specification under Charge II. Charge II. is followed by a heading entitled "specification"; but, in fact, there is no specification whatever, but only the general statement: "In the said inaugural address, delivered, published, extensively circulated and republished as above described, Dr. Briggs teaches as follows" (p. 39). Turning to Charge I. we find that a statement corresponding to this is made as the second section of the charge. Place

the two side by side and this will be evident at a glance:

CHARGE I.	SPECIFICATION OF CHARGE II.
"These hurtful errors, striking at the vitals of religion, and contrary to the regulations and practice of the Presbyterian Church, were promulgated in an inaugural address which Dr. Briggs delivered at the Union Theological Seminary in the city of New York, Jan. 20, 1891, on the occasion of his induction into the Edward Robinson Chair of Biblical Theology, which address has, with Dr. Briggs' approval, been published and extensively circulated, and republished in a second edition with a preface and an appendix" (p. 5).	"In the said inaugural address, delivered, published, extensively circulated and republished as above described, Dr. Briggs teaches as follows" (p. 39).

If such a statement belong to Charge I., it does not belong to the specification of Charge II. The only item under the so-called specification of Charge II., not corresponding to the statement made under Charge I., is the clause "teaches as follows." In all the previous specifications, the references under the head of "Inaugural Address" are a part of the proof; here, however, they are made a part of the specification. This so-called specification is a heaping up of extracts from six pages of the Inaugural Address. I shall admit the correctness of the citations. If therefore no objection is taken to their propriety in the specification, or to their relevancy under the charge, the defendant is placed in a disadvantageous position as to the verdict which might be rendered against him on the basis of any one of the thirty-four verses of Scripture cited, or any clause of the several extracts from the Standards.

There is nothing whatever in the specification. It

makes no specification of fact such as could be admitted or refuted. If the specification had pointed to any erroneous doctrine taught by me; if I had been charged with teaching second probation or any probation whatever after death, I might have pointed to several of my writings in which this doctrine is distinctly disclaimed. If the doctrine of purgatory had been imputed, or regeneration after death, or transition after death from the state of the condemned to the state of the justified, any and all of these could have been disproved from my writings. If any insinuation had been made that I had taught that the redeemed enter the Middle State guilty and sinful, this could easily have been refuted. But no such doctrines are specified. No specific doctrine whatever is mentioned. There is nothing in the specification that can be tested by the defendant or challenged by the Presbytery.

There was no sufficient reason for indefiniteness and vagueness here. The doctrine taught in the Inaugural Address is Progressive Sanctification after Death. The doctrine alleged to be in conflict with it is Immediate Sanctification at Death.

It will be necessary for the prosecution to prove (1) that immediate sanctification at death is taught in the Scriptures and the Standards; (2) that it is a cardinal doctrine of the Westminster Confession; and (3) that the two doctrines are in irreconcilable conflict with each other, ere the Presbytery would be justified in condemning me. The charge and so-called specification do not make a definite issue. They put the charge and specification in such an obscure, indefinite, and empty form, that the defendant is placed at a serious disadvantage in pleading, and the jurors may be justified in voting to condemn, on any plausible ground that

might seem to them sufficient, to prove that in any way the views of the Future State expressed in the Inaugural Address, are in conflict with their own views of Scripture and Confession.

2.—SPECIFICATION 5 OF CHARGE I.

Having disposed of the specification under Charge II. we may now devote our attention to the seven specifications of Charge I. These specifications may be grouped under several heads. I shall review them in an order more suitable to my purpose than that of the Report itself. I shall first consider specification 5; (2) specifications 1 and 6; (3) specifications 2, 3, and 4; (4) specification 7. The first of the specifications to which I object is specification 5:

"Dr. Briggs makes statements in regard to the Holy Scriptures which cannot be reconciled with the doctrine of the true and full inspiration of those Scriptures as the Word of God written" (p. 21).

It should now be kept distinctly in mind that a specification must confine itself to setting forth "*the facts relied upon to sustain the charge*" (§ 15). This specification does not state a fact, but makes an allegation which is of the nature of a charge. This will be clear if one compares this specification with Charges I. and II. Charge I. alleges that Dr. Briggs teaches "doctrines which conflict." Charge II. alleges that he teaches a doctrine of "the character, state, and sanctification of believers after death," which conflicts. This specification alleges that he makes "statements in regard to the Holy Scriptures which cannot be reconciled with," etc. Specification 5 is therefore really as much of a charge as Charges I. and II., and has been improperly brought under Charge I. But even as a charge, it is no true

charge. It shares the faults of the other charges. This specification uses the plural "*statements*," involving several offences, and it does not specify what one of the many statements in regard to the Holy Scripture it is designed to allege against me. Placing this specification side by side with Charge I., it is clear that this specification cannot be brought under Charge I., for it deals with a different doctrine. In Charge I. the cardinal doctrine that "the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice," the first of the terms of subscription, is the doctrine against which it is alleged that I offend. In this specification, it is "the true and full inspiration of Holy Scripture as the Word of God written" (Confession of Faith, I. 2), against which offence is alleged. These two doctrines may be brought under the general doctrine of Holy Scripture; but the one of these doctrines cannot be brought under the other. Therefore Specification 5 is irrelevant to Charge I.

When one compares this Report, with its Charges and Specifications, with the Report of the committee to examine the Inaugural Address, made to Presbytery in May last, and recognizes that the chairman and the majority of both committees are the same; one is entitled to ask how they can reconcile the two Reports. What they then, in their first Report, made their second charge, and what they then argued as their principal offence, namely, the offence against the inerrancy of the original autographs of Scripture, has been reduced in this Report to a specification under Charge I. Here was a definite, a distinct difference of doctrine as to the inerrancy of Scripture, which should have been formulated into a definite charge with specifications, so that the Presbytery might vote on the ques-

tion: Does the Westminster Confession teach the inerrancy of the original autographs of Holy Scripture? The charge definitely made and argued last May has been depreciated in this Report. It has been subordinated as a specification under a different charge. It has been couched in such general, obscure, and indefinite language as not to enable a juror to vote on the direct question of the inerrancy of the original autographs of Scripture; but to induce him to vote the defendant guilty of a general charge for any private reasons of objection against his doctrine of the Bible, whatever they may be.

Specification 5 ought to be restored to its original position as given in the Report of the committee to the Presbytery in May last, and made as a distinct charge, and it should state definitely the issue involved, namely, what doctrine is it that Dr. Briggs teaches that is irreconcilable with the cardinal doctrine of Scripture and Confession, as to the inerrancy of Holy Scripture? Is it a cardinal doctrine of Holy Scripture and Confession that the original autographs of Holy Scripture were inerrant? If such a definite charge had been made, then the Presbytery could test it intelligently and decide with precision.

3.—SPECIFICATIONS 1 AND 6 OF CHARGE I.

Specifications 1 and 6 may be considered together, because they are the only two of the eight specifications that can be recognized as in any sense true and real, as alleging actual facts.

A.—SPECIFICATION 1.

It is a fact that the Inaugural Address declares that there are "historically three great fountains of divine authority, the Bible, the Church, and the Reason," but

Specification 1 is illegal in form, in that it introduces an inference from the fact, by the prosecution, that cannot be recognized as either true or valid. It is not altogether clear what the prosecution mean to infer by their word "*sufficient*." If they mean to intimate that the Inaugural teaches that the Church and the Reason are each alike *sufficient* fountains of divine authority, and that the Church and the Reason are no less "*sufficient* to give that knowledge of God and His will, which is necessary unto salvation," than Holy Scripture; they infer what they have no right to infer from anything taught in the Inaugural Address. It is unlawful to put in specifications inferences of the prosecution not recognized by the accused, as if they were facts. For the supreme court of the Church has decided in the Craighead case:

"That a man cannot fairly be convicted of heresy, for using expressions that may be so interpreted as to involve heretical doctrines, if they may also admit of a more favorable construction: Because, no one can tell in what sense an ambiguous expression is used, but the speaker or writer, and he has a right to explain himself; and in such cases, candor requires that a court should favor the accused, by putting on his words the more favorable, rather than the less favorable construction. Another principle is, that no man can rightly be convicted of heresy by inference or implication; that is, we must not charge an accused person with holding those consequences which may legitimately flow from his assertions. Many men are grossly inconsistent with themselves; and while it is right, in argument, to overthrow false opinions, by tracing them in their connections and consequences, it is not right to charge any man with an opinion which he disavows."—Craighead Case: "Minutes of the General Assembly," 1824, p. 122.

Specification 1, though it cites a fact, when the invalid inference is stricken out, is yet irrelevant; for the specification does not attempt to prove that this fact

conflicts with, and is contrary to, the cardinal doctrine that "the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice." Furthermore there is no process of logic by which this specification can be brought under the charge. The Reason is a "great fountain of divine authority," and yet not an "infallible rule of faith and practice." The Church is a "great fountain of divine authority," and yet not an "infallible rule of faith and practice." The Bible is a "great fountain of divine authority," and it is also "the only infallible rule of faith and practice." Here are two different statements of truths that may be embraced under a more general truth, but to affirm the one, as to Bible, Church, and Reason that "they are great fountains of divine authority," is not to deny that the Bible is the only one of which the other can be affirmed, namely, that "the Scriptures are the only infallible rule of faith and practice." When God speaks through the conscience, He speaks with divine authority and the conscience becomes a "great fountain of divine authority"; but the conscience does not become thereby an "infallible rule of faith and practice." God speaks through the holy sacrament with divine authority, and the sacrament of the Church is then a "great fountain of divine authority"; but it does not become thereby an "infallible rule of faith and practice." I affirm that I have never anywhere, or at any time, made any statements or taught any doctrines that in the slightest degree impair what I ever have regarded as a cardinal doctrine, that "the Holy Scriptures are the only infallible rule of faith and practice."

B.—SPECIFICATION 6.

It is a fact that I have taught and most firmly hold and assert "that Moses is not the author of the Penta-

teuch, and that Isaiah is not the author of half of the book which bears his name," but Specification 6 does not indicate by what method of reasoning it brings this fact under the charge. It is irrelevant to the charge. If it be a valid offence it ought to have been made the ground of a distinct charge, and it ought to have been definitely stated what relation Moses has to the Pentateuch, and Isaiah to the book that bears his name, according to the Confession, and in what way the doctrine stated by me conflicts therewith, or with Holy Scripture. Though Moses be not the author of the Pentateuch, yet Mosaic history, Mosaic institutions, and Mosaic legislation lie at the base of all the original documents; and the name of Moses pervades the Pentateuch as a sweet fragrance, and binds the whole together with irresistible attraction into an organism of divine law. Even though Moses be not the author of the Pentateuch, yet the Pentateuch may be, as I firmly believe, one of the books of Holy Scripture, having divine authority; and the Pentateuch is, as I have always taught, one of those Holy Scriptures which together constitute "the only infallible rule of faith and practice."

Even though "Isaiah did not write half the book which bears his name," yet I firmly believe that holy prophets no less inspired than Isaiah, wrote the greater half of the book under the guidance of the divine Spirit, so that the book with different authors is as truly one of the books of Holy Scripture, "the only infallible rule of faith and practice," as if it were written by Isaiah alone. The fact adduced has no manner of relevancy to the charge.

If the Presbytery should decide that these two specifications, 1 and 6, are relevant to the Charge, they would put the accused in a false position and expose him to

the peril of a condemnation on the basis of these two facts, which, after rejecting the illegal inferences, he must acknowledge as true, but which he claims need explanation, and are entirely irrelevant to the Charge. If it be true that the Scriptures and the Confession teach that Moses wrote the Pentateuch, and that Isaiah wrote the whole of the book which bears his name, these doctrines should be affirmed in charges, as cardinal doctrines, and the doctrines taught by me should be placed in such a sufficient legal form, that the jurors might vote clearly and directly upon them.

It is conceivable that I might be proven guilty of teaching doctrines contrary to the Confession in regard to both Moses and Isaiah, and the Church and the Reason as fountains of divine authority; but it would still remain unproven that such teaching was opposed to cardinal doctrines of the Confession. Much less would it be proven that these doctrines conflict irreconcilably with the cardinal doctrine "that the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice."

4.—SPECIFICATIONS 2, 3, AND 4 OF CHARGE I.

Specifications 2, 3, and 4 may be grouped, because the same objections hold against the three. They all make false inferences and erroneous statements. It might be proper in a civil court to challenge the proof of these so-called specifications of fact; but in the ecclesiastical court, according to the decision already quoted in the Craighead case, inferences and statements, not recognized by the accused, are not valid in the specification of offences. And it is certainly in the interest of truth and the saving of valuable time, that

exception should at once be taken to them as irrelevant and invalid specifications under the Charge.

A.—SPECIFICATIONS 2 AND 3.

Specification 2 alleges that:

"Dr. Briggs affirms that, in the case of some, the Holy Scriptures are not sufficient to give that knowledge of God and His will, which is necessary unto salvation, even though they strive never so hard; and that such persons, setting aside the supreme authority of the word of God, can obtain that saving knowledge of Him through the Church" (p. 12).

Specification 3 alleges that:

"Dr. Briggs affirms that some (such as James Martineau, who denies the doctrines of the Holy Trinity, the Incarnation, the Atonement, the Resurrection of the Body, the personality of the Holy Ghost, who rejects the miracles of the Bible and denies the truth of the Gospel narratives, as well as most of the theology of the Epistles), to whom the Holy Scripture is not sufficient to give that knowledge of God, and of His Will, which is necessary unto salvation, may turn from the Supreme Authority of the Word of God and find that knowledge of Him through the Reason" (p. 15).

These specifications, as they now stand, are false to truth and to fact. No such facts are recorded in the Inaugural Address. If, however, they were true, and it could be proven, or I should admit, that I had affirmed that the Scriptures "are not sufficient to give that knowledge of God and His will, which is necessary unto salvation," even then, in that case, the specifications would be irrelevant to the charge, for the charge alleges that I teach doctrines that irreconcilably conflict with the cardinal doctrine that "the Holy Scriptures of the Old and New Testaments are the only infallible rule of faith and practice." But these specifications allege a very different thing which cannot be

brought under that cardinal doctrine, namely, that I affirm that the Scriptures "are not sufficient to give that knowledge necessary unto salvation." The *sufficiency* of Holy Scripture is one doctrine, its *infallibility* another doctrine, both true and cardinal doctrines of Holy Scripture, taught in the Westminster Confession; but two different and distinct doctrines; therefore Specifications 2 and 3 are irrelevant to the charge.

Furthermore the specifications are invalid statements of fact. For nowhere in the Inaugural Address, or in any other writing that I have written, is it affirmed that "in the case of some, the Holy Scriptures are not sufficient to give that knowledge of God and His Will, which is necessary unto salvation"; or "that some, to whom the Holy Scripture is not sufficient to give that knowledge of God and of His Will, which is necessary to salvation, may turn from the Supreme Authority of the Word of God and find that knowledge of Him through the Reason." I have nowhere denied the *sufficiency* of Holy Scripture. I have ever maintained that it is sufficient for the salvation of all men, of the entire human race. The redemption through Jesus Christ is sufficient for all mankind. The Word of God which proclaims that redemption to the world in the Gospel of the grace of God, is sufficient for every one and for all the world. But the *sufficiency* of Holy Scripture is one thing, the *efficacy* of Holy Scripture is another and a different thing. The Westminster Confession teaches that "our full persuasion and assurance of the infallible truth, and divine authority thereof (of Holy Scripture), is from the inward work of the Holy Spirit, bearing witness by and with the word in our hearts" (I. 5). The Larger Catechism represents that: "the Spirit of

God maketh the reading, but especially the preaching of the Word, an effectual means of enlightening, convincing, and humbling sinners, of driving them out of themselves, and drawing them unto Christ; of conforming them to His image and subduing them to His will; of strengthening them against temptations and corruptions; of building them up in grace and establishing their hearts in holiness and comfort through faith unto salvation" (Quest. 155).

It is evidently the teaching of our standards that while the Scriptures are always sufficient, they are not always efficacious to those who use them; but that their efficacy depends upon the presence and power of the Divine Spirit in and with the Scriptures in their use. I affirm both the sufficiency of the Scriptures, and the efficacy of the Scriptures, when the Divine Spirit accompanies them; but this is not to affirm that in fact all those who use the Scriptures as a means of approach to God, do certainly find them efficient in their case, or that the Divine Spirit may not work effectually upon some men through the Church or the Reason.

It is a cardinal doctrine of the Reformed Churches that the divine Spirit is free and is not confined to any one or to all of the means of grace. This doctrine finds expression in the words of our Confession, where it says "the Spirit who worketh when, and where, and how He pleaseth" (X. 3).

I have taken the late Cardinal Newman at his word, when he said he did not find certainty of divine authority through the Scriptures, but did find certainty of divine authority through the Church. I have not affirmed that Newman found divine certainty without the influence of the divine Spirit. I have said that he

found divine certainty by the influence of the divine Spirit working through Church and Sacrament, which are means of grace as truly as Holy Scripture. I have not said that Newman did not find the Scripture *sufficient* for salvation. Newman himself never said that. He was always devout in his use of Holy Scripture. I said that he did not find *certitude* in the Scripture, but that in his case the divine Spirit gave that certitude through the Church as a means of grace.

So also in the case of Martineau. I did not affirm that he found the Scriptures *insufficient* for his salvation, but I said that he did not gain *certitude* either through the Scriptures or the Church; but that he claimed, and I recognized his claim, that he found this *certitude*, this *certainty* of divine authority, in the forms of the Reason, using Reason as Martineau and others have commonly used it, to include the conscience and the religious feeling.

It is in accordance with the common doctrine of the Reformed Churches, that the Spirit of God may work directly upon the souls of men apart from Bible, Church, and Sacraments. It is a simple question of fact whether the divine Spirit has not thus worked in the case of Martineau. My judgment may be challenged for accepting Martineau's own testimony in the case; but my orthodoxy cannot be rightly challenged for recognizing Martineau as a case, in the category of cases, recognized by our Confession, of those directly approached by the Spirit "who worketh when, and where, and how He pleaseth" (X. 3).

The prosecution, with great impropriety, have inserted in the midst of the fact so wrongly imputed to me, a summary of their own composition, setting forth the errors of James Martineau. This is entirely irrele-

vant. I have nowhere affirmed the orthodoxy of Martineau. On the other hand, I selected him as a man entirely outside of the camps of evangelicals and churchmen, to represent a class of men who found divine certainty in the Reason. The prosecution may find it difficult to believe that God would grant certitude to such a man through the Reason; but they do not, and they cannot, adduce from Holy Scripture or Confession any evidence to show that God may not in fact grant even such a man as Martineau access to Him through the Reason, notwithstanding all his heterodoxy and neglect of the means of grace so necessary to other men. If I have in the cases of Newman and Martineau taught erroneous doctrine when I have said that the one found divine certainty in the Church and the other in the Reason, when they could not find that certainty in the Bible; then that passage of the Confession should be pointed out which teaches as a cardinal doctrine, that the Bible is the *only means* used by the divine Spirit to grant *certitude, certainty, assurance of grace and salvation;* and that cardinal doctrine, if it can be found, should be put in a definite charge, sufficient in form and legal effect.

B.—SPECIFICATION 4.

Specification 4 also comes under this head. It alleges that "Dr. Briggs asserts that the temperaments and environments of men determine which of the three ways of access to God they may pursue" (p. 19). This is also a false inference. The specification makes two important changes in my doctrinal statement. The Inaugural says, "Men are influenced by their temperaments and environments." The specification changes the passive construction into the active and thus gives greater emphasis to the verb. It also uses instead of

the verb "influence," the much stronger word "determine." I have never said that "the temperaments and environments of men *determine* which of the three ways of access to God they may pursue." I used the expression "*influenced by*," advisedly; because it does not exclude other influences than these. Indeed it would be quite proper, so far as the language of the Inaugural is concerned, if one should say, "Men are influenced by their temperaments and environments which of the three ways of access to God they may pursue," but it is the Spirit of God who alone determines in which of the three ways they shall find the divine certainty of which they are in quest.

But even if the specification were recognized as valid and true, it is irrelevant to the charge; for it does not appear from anything in the specification itself that the doctrine of the specification is irreconcilably in conflict with the cardinal doctrine that "the Holy Scriptures are the only infallible rule of faith and practice."

5.—SPECIFICATION 7 OF CHARGE I.

Specification 7 alleges that "Dr. Briggs teaches that predictive prophecy has been reversed by history, and that much of it has not and never can be fulfilled" (p. 35).

This specification makes invalid inferences and statements. The specification makes two serious changes in the sentence of the Inaugural. (1). It omits altogether the qualifying clause, "if we insist upon the fulfilment of the details of the predictive prophecy of the Old Testament," and (2) it substitutes for "many of these predictions," the careful statement of the Inaugural Address, "predictive prophecy," a general and comprehensive term; and thus alleges that the address

teaches that "predictive prophecy has been reversed by history." This allegation is entirely without justification from anything taught in the Inaugural Address, or any other of my writings. I have ever taught that the predictive prophecy of the Old Testament has been fulfilled in history, or will yet be fulfilled in history. I have shown in my book, entitled "Messianic Prophecy," that "the details of predictive prophecy" belong to the symbolical and typical form, and were never designed to be fulfilled. I have shown the historical development of the entire series of Messianic predictions of the Old Testament, and pointed them towards the fulfilment in Jesus Christ our Saviour; and have urged that either they have been fulfilled at His first advent, are being fulfilled in His reign over His Church, or will be fulfilled at His second advent.

The specifications have now been tested as to their relevancy, and have all of them been found to be irrelevant. Only two of the eight specifications state what can be recognized as facts, and these two can, by no process of logic, be brought under the Charge. If there be sufficiency in form or in legal effect, in any of the charges and specifications, the respondent fails to see it. He submits his objections to the Presbytery, in the confidence that they will receive due consideration, and that the Presbytery will take proper action with regard to them.

IV.—THE PROOFS.

The objections might be brought to an end here, were it not important to save the valuable time of the Presbytery, by calling attention to all such faults in connection with the charges and specifications as should be considered.

The citations from the Inaugural, from Holy Scripture, and from the Westminster Confession and Catechisms have the same fault that we have found in the charges and specifications. There is a general vagueness and indefiniteness.

I object (1) that it is not in good form *to cite any more from the Inaugural Address than is sufficient for the proof of the specification under which the citation is made.* Under the so-called specification of Charge II. a long citation is made from three pages of the Inaugural Address, and a second long citation from two pages of the Appendix of said Address is given to prove one knows not what fact or charge.

(2). The *citations from the Westminster Confession are commonly of entire sections.* The committee do not claim in their charges and specifications, that there is offence against the entire doctrine of these sections of the Confession. They should be required therefore to limit their citations to those portions of these sections that furnish probable proof of the position taken by them. *e. g.*, what possible advantage is gained from the citation of all the books of the Bible under two different specifications, when no charge or specification is made, that the Inaugural Address questions any one of these books as a part of the canon of Holy Scripture?

(3). *Large numbers of texts of Holy Scripture are cited, which are entirely without value for the proof of the specification.* It is unnecessary to pick and choose, to set this forth. The passages mentioned first under the specifications will suffice.

(*a*). Many *texts are torn from their context.* The first passage cited is from Isa. viii. 20. The passage is incorrectly translated in the version used, for the mean-

ing "there is no light in them" is not justified. The Revised Version renders "surely there is no morning for them," they have no hope of a dawn of brighter things. The proper rendering is:

"When they say unto you, Seek unto the necromancers and unto wizards;
Ye chirpers and mutterers, should not a people seek unto their God?
On behalf of the living will they seek, unto the dead for instruction and for testimony?
If they say not so, who have no dawn," etc.

This passage has no reference whatever to the Holy Scriptures, or any part of them; but is a rebuke of the people of Judah for seeking necromancers and wizards, rather than the living God.

(*b*). Many of the texts are given *in King James' Version*, in cases where the Revised Version gives the correct rendering. In the first citation under Specification 2, the passage from 2 Tim. iii. 16, is given from King James' Version; but the Revised Version renders, "Every Scripture inspired of God is also profitable for teaching, for reproof, for correction, for instruction in righteousness." There is a difference of doctrine here which is of some importance in the use of this text for purposes of probation.

(*c*). *The Confession requires that in all controversies of religion, the Church is finally to appeal to the original Old Testament in Hebrew and the New Testament in Greek* (§ 18). No such appeal is made in the specifications, even in cases where the version quoted is regarded by scholars as incorrect or wrong. The first citation under Specification 3 is from King James' version of John v. 10. If one turn to the original Greek he will see that the translation, "believeth not the *record* that

God gave of His Son," does not correspond with the original, which reads "*witness*," and that witness is not Holy Scripture either in whole or in part. The passage is therefore irrelevant to the specification, to prove that I am in error in teaching that Martineau found divine certainty through the Reason. In that this passage of Holy Scripture teaches a direct and immediate testimony of God within a man without the mediation of Holy Scripture, it rather favors the doctrine that God may, as in the time of the apostles, pursue this direct method with some men in our days.

(*d*). *A considerable portion of the verses cited have no manner of relevancy to the specifications under which they are given.* If they are suffered to remain, they will tend to needlessly prolong the trial. The three citations from Holy Scripture under specification 4, from 1 Peter i. 23, 25 ; Gal. i. 8, 9 ; John xiv. 6, have no manner of relevancy to the question, whether men are or are not "influenced by their temperaments and environments which of the three ways of access to God they may pursue." That men are "begotten again" through "the Word of God," "which liveth and abideth"; that an "anathema" is pronounced upon any one who preaches "any other gospel" than the gospel preached by Paul; that Jesus is "the way, the truth, and the life," and "no one cometh unto the Father but through Him"; are doctrines taught in these passages and are firmly believed by me, but they have nothing whatever to do with the doctrine that I have taught as to the temperaments and the environments of men.

(*e*). *I question the propriety of quoting any passages of Scripture in proof of doctrines not defined by the Westminster Confession and Catechisms.* The constitution of the Church defines the limits of obligation, and also

protects the minister as regards all matters of belief and practice, outside of those limits. If this Presbytery had the right to decide the interpretation of passages of Scripture for the official determination of doctrines undefined in our constitution, there would be a new way of amending and enlarging the Confession of Faith by judicial decisions in heresy trials, which would contravene and subvert the constitutional method of revision, which has been made an essential part of our constitution. A study of these proof-texts exposes the fault of the specifications in this particular.

The passages from Holy Scripture cited under specification 6 of Charge I. are 60 in number, to prove that Moses wrote the Pentateuch and Isaiah wrote the whole of the book that bears his name. Only 7 of these are used in the Confession of Faith, and five of these seven under other chapters of the Confession than the first, leaving only two of the sixty that were used by the Westminster divines to prove their doctrine of the Bible; and these two not to prove, as the specification would use them, the authorship of the Pentateuch and the book of Isaiah; but Luke xxiv. 27, 28, to prove that the Apocrypha are no part of the canon of Scripture; and John v. 46, in the original edition of the Confession, to prove that the Church is to appeal to the original texts of Scripture; but this last is very properly omitted from the American edition of proof-texts. This fact that the Westminster divines use only 2 of the 60 texts cited by the prosecution for proof of their doctrine of Scripture, and not one of them to prove that Moses was the author of the Pentateuch, or that Isaiah was the author of the book that bears his name, ought to convince you that, even if they are relevant to the specification, they are

not relevant to any doctrine taught by the Confession.

Indeed it would be quite easy to show that not a single one of the large number of Scripture passages adduced, has any force for the proof of the specifications under which they are adduced.

All of these passages of Holy Scripture are accepted and firmly believed by me, when properly rendered according to the original Hebrew, Aramaic, and Greek, which "being immediately inspired by God, and by His singular care and providence kept pure in all ages, and therefore authentical"; "in all controversies of religion, the Church is finally to appeal unto them."

These objections to the sufficiency of the charges and specifications placed in my hand by order of the Presbytery of New York, as to their form and legal effect, are hereby respectfully submitted to the Presbytery for their judgment.

C. A. BRIGGS.

November 4th, 1891.

III.

THE ACTION OF THE PRESBYTERY OF NEW YORK IN DISMISSING THE CASE.

"*Resolved*, That the Presbytery of New York, having listened to the paper of the Rev. Charles A. Briggs, D.D., in the case of the Presbyterian Church in the United States of America against him, as to the sufficiency of the charges and specifications in form and legal effect, and without approving of the positions stated in his inaugural address, at the same time desiring earnestly the peace and quiet of the Church, and in view of the declarations made by Dr. Briggs touching his loyalty to the Holy Scriptures and the Westminster Standards, and of his disclaimers of interpretations put on some of his words, deems it best to dismiss the case, and hereby does so dismiss it."

This resolution was adopted by a vote of ninety-four to thirty-nine—seventy-one ministers and twenty-three elders voting in the affirmative, twenty-seven ministers and twelve elders in the negative.

IV.

COMPLAINT TO THE SYNOD OF NEW YORK AGAINST THE PRESBYTERY OF NEW YORK FOR ITS DECISION OF THE QUESTION OF THE ORIGINAL PARTY.

Complaint is hereby made before the Synod of New York by the persons whose names are appended below, being all of them persons subject to and submitting to the jurisdiction of the Presbytery of New York, in accordance with Sections 83 and 86 of the Revised Book of Discipline, against the action of the Presbytery of New York, November 4, 1891, in sustaining by a vote of 64 to 57 the ruling of the moderator, as follows:

1. That the Committee which prepared charges against Dr. Briggs (presented to Presbytery October 5, 1891) was a Committee of Prosecution under Section 11 of the Revised Book of Discipline.

2. That this Committee was in the house on the day on which the citation was returnable (November 4, 1891, as aforesaid) as an *original party*.

3. That the Committee, as an original party, was virtually and practically independent of the Presbytery.

Against this action complaint is made for the following reasons:

1. The records of Presbytery do not show that the Committee was appointed as a Committee of Prosecution under Section 11 of the Revised Book of Discipline.

2. Section 10 of the Revised Book of Discipline declares that "When the prosecution is initiated by a

judicatory, the Presbyterian Church in the United States of America shall be the prosecutor, and an original party." But the Presbyterian Church in the United States of America was represented in the house by the Presbytery of New York itself and not by a Committee of the Presbytery.

3. Every committee appointed by Presbytery is subject to the control of Presbytery, otherwise the creature is greater than the body creating it, the sovereignty of Presbytery over its members, its committees, and all the interests committed to it by the laws of the Church, is seriously impaired, and an undue power is placed in the hands of a few persons.

4. It was therefore competent for the Presbytery to discharge the Committee on dismissing the case against Dr. Briggs. But a motion to this effect was ruled out of order by the moderator, on the ground of the Presbytery's action in sustaining him, as cited above (cf. also Complaint 2).

5. The Committee, being a creature of Presbytery, had no right to appeal from the decision of Presbytery in voting by a large majority (94 to 39) to dismiss the aforesaid case. Yet this the action of Presbytery in sustaining the ruling of the moderator, as above, permitted them to do.

6. By this appeal of the Committee, the Presbytery is placed in the absurd position of being compelled to defend its own action in dismissing a case, not against the complaint of any individual, nor against the appeal of one who has suffered personal detriment by a judicial decision, but against a Committee which was appointed by and derives all its authority from the very body against whose judgment it now proposes to maintain its opinion. This anomalous situation results from the

action of the Presbytery in sustaining the moderator as above.

For these reasons, due notice of complaint having been given to the stated clerk of the Presbytery of New York, within ten days after the action complained of, according to Section 84 of the Revised Book of Discipline, Complaint is hereby made in due form to the next higher judicatory, being the Synod of New York, against the action of the Presbytery of New York above described, and the Synod is most respectfully and earnestly requested to entertain this Complaint and to take therein such action as shall in its judgment appear wise and likely to promote good order, justice, and the peace, purity, and welfare of the Church of Christ.

[Signed]

1 Francis Brown,*
2 Thos. S. Hastings,
3 Geo. L. Prentiss,
4 John R. Paxton,
5 George Alexander,
6 Jas. H. McIlvaine,
7 Wilton Merle Smith,
8 H. T. McEwen,
9 Stealy B. Rossiter,
10 Edward L. Clark,
11 E. W. Hitchcock,
12 Chas. R. Gillett,
13 Anson P. Atterbury,
14 John Balcom Shaw,
15 W. R. Harshaw,
16 A. W. Halsey,
17 D. H. Overton,
18 Jas. E. Sentz,
19 George C. Lay,
Robert T. B. Easton,
Lester W. Hough,
20 William T. Elsing,
21 W. M. Martin,
22 Herbert Ford,
23 Andrew Shiland,
24 Joseph A. Saxton,
H. M. Humphrey,
William N. Crane,
Horace J. Fairchild,
25 Clarence P. Leggett,
George R. Aitken,
26 Samuel Macauley Jackson,
William E. Dodge,
William W. Hoppin,
Henry D. Noyes,
J. C. Cady,

* The numbers indicate those who were present and voting when the decision was made. The total number of signers 114.

W. H. H. Moore,
S. J. Storrs,
D. Willis James,
John Crosby Brown,
Samuel Q. Brown,
27 Thomas G. Strong,
Clark Brooks,
28 William A. Wheelock,
29 Henry Van Dyke,
30 Charles L. Thompson,
Arthur Mitchell,
31 Philip Schaff,
32 C. H. Parkhurst,
C. A. Briggs,
33 George L. Spining,
34 James H. Hoadley,
35 Marvin R. Vincent,
36 Joseph R. Kerr,
37 Henry M. Field,
E. M. Kingsley,
Elisha M. Carpenter,
38 Vincent Pisek,
39 Daniel E. Lorenz,
40 John H. Edwards,
41 Theron G. Strong,
42 Charles H. Woodbury,
Theron E. Parsons,
43 A. G. Ruliffson,
44 Lewis W. Barney,
Walter P. Beers,
45 Henry B. Chapin,
Francis P. Freeman,
Joseph Gillet,
James Denholm,
46 W. W. Atterbury,
Henry R. Elliot,
Antonio Arrighi,
47 George S. Payson,
D. J. McMillan,
Henry Day,
48 George S. Webster,
Chas. O. Kimball,
Alfred E. Marling,
49 Henry Q. Hawley,
50 D. Stuart Dodge,
51 Geo. J. Mingins,
52 Sidney F. Wilcox,
Wm. A. Ewing,
Robert Jaffray,
53 Isaac M. Dyckman,
Allan Hay,
54 Robert Gentle,
Henry M. MacCracken (as to the request),
55 Jesse F. Forbes (as to request),
56 F. H. Marling,
Chas. M. Earle,
George Calder,
Thomas Bond,
57 Cleveland H. Dodge,
58 Samuel Reeve,
59 M. P. Brown,
Albert Ledowe,
Daniel J. Holden,
Titus B. Meigs,
Wm. Rice,
60 A. C. Armstrong,
61 Erskine White,
62 Bartholomew Krūsi,
63 Henry Breunich,
James Robertson,
Frank Kunzmann,
64 John Stewart,
John Cepek,
65 Fred. N. Rutan,
Charles H. Trask,
66 J. P. Lestrade,
Hamilton Odell,
67 A. M. Mitchell.

V.

THE APPEAL TO THE GENERAL ASSEMBLY.

NEW YORK, Nov. 13th, 1891.

TO THE VENERABLE THE GENERAL ASSEMBLY OF THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, GREETING:

The undersigned, the Prosecuting Committee appointed by the Presbytery of New York, to represent the Presbyterian Church in the United States of America, in the case of the said Presbyterian Church against the Rev. Charles A. Briggs, D.D., believing that the trial of the said Dr. Briggs is one of the most important in the history of the Presbyterian Church, by reason of the great and dangerous errors contained in the Address of the said Dr. Briggs at his inauguration as Professor of Biblical Theology in Union Theological Seminary, delivered on the 20th day of January, 1891, upon which Inaugural Address charges and specifications were based and tabled and prosecution inaugurated by the Presbytery of New York in the name of the Presbyterian Church in the United States of America; and believing that the distinct and definite condemnation of those errors by the Supreme Judicatory of the said Presbyterian Church is necessary in order to prevent their spread and influence in the denomination; and, while having the highest respect for the Synod of New York, believing that a special responsibility rests upon the General Assembly in cases that affect the doctrine of the Church,

and concern the promotion of truth and holiness through all the churches under its care, as set forth in Chapter XII., Sections IV. and V., of the Form of Government; and in view of the desirableness of the speediest settlement of this most important question, do hereby appeal to and request your Venerable Body to enter immediately upon the consideration and judicial investigation of the appeal, hereby presented, and to finally determine the case, so as to secure the purity and the peace of the Church at the earliest possible day.

And in the further prosecution of the case on the part of the said Prosecuting Committee, the said Committee, the Appellant, respectfully sets forth:

That on the thirteenth day of April, A.D. 1891, the Presbytery of New York appointed a Committee to consider the Inaugural Address of the Rev. Charles A. Briggs, D.D., in its relation to the Confession of Faith, and that on May eleventh, A.D. 1891, the said Committee presented to said Presbytery a report which is hereby referred to as a part of the record of the proceedings which culminated in the decision and final judgment from which this appeal is taken.

The said report was accepted, and its recommendation "that the Presbytery enter at once upon the judicial investigation of the case" was adopted by the said Presbytery, and thereupon it was "*Resolved*, That a Committee be appointed to arrange and prepare the necessary proceedings appropriate in the case of Dr. Briggs"; and the Rev. G.W. F. Birch, D.D., Rev. Joseph J. Lampe, D.D., Rev. Robert F. Sample, D.D., and Ruling Elders John J. Stevenson and John J. McCook were appointed such Committee in conformity with the provisions of Section 11 of the Book of Discipline.

That after the initiation of the prosecution by the

said Judicatory, the Presbytery of New York, as above recited, the said Prosecuting Committee entered upon its duties.

That in compliance with the provisions of Section 10 of the Book of Discipline, the Presbyterian Church in the United States of America became an original party in the case, and was represented by the said Prosecuting Committee, which said Committee, under Section 11 of the Book of Discipline, was charged with the duty of conducting the prosecution in all its stages in whatever judicatory, until the final issue be reached; and at a meeting of the said Presbytery, held on the eighth day of June, A.D. 1891, the said Prosecuting Committee reported progress, and informed the said Presbytery that charges and specifications would be tabled by the said Committee at the meeting of the Presbytery to be held in October, and the said Presbytery accepted the said report of progress.

That at the meeting of said Presbytery, held on the fifth day of October, A.D. 1891, the said Prosecuting Committee presented a report which is hereby referred to as a part of the record of the proceedings which culminated in the decision and final judgment from which this appeal is taken. That the said Presbytery accepted said report and adopted its recommendations, and the charges and specifications in the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D., contained in the said report, were read in the presence of the Judicatory, and were served by the Moderator upon the said Rev. Charles A. Briggs, D.D., together with a citation, citing him to appear and plead to the said charges and specifications at an adjourned meeting of the said Presbytery, to be held on November fourth, A.D. 1891.

That after said report was presented to the said Presbytery, and the charges and specifications therein contained had been read and pending action upon said report, the Presbytery entertained a motion to arrest the judicial proceedings and to discharge the Committee from further consideration of the case, as follows:

"*Whereas*, the Presbytery of New York, at its meeting in May last, on account of utterances contained in an inaugural address delivered January 20, 1891, appointed a Committee to formulate charges against the author of that address, Rev. Charles A. Briggs, D.D., and, whereas, since that action was taken, the accused has supplemented those utterances by responding to certain categorical questions. * * *

"*Therefore, Resolved*, That Presbytery, without pronouncing on the sufficiency of these later declarations to cover all the points concerning which the accused has been called in question, with hearty appreciation of the faithful labors of the Committee, deems it expedient to arrest the judicial proceedings at this point, and hereby discharges the Committee from further consideration of the case."

On the aforesaid motion to dismiss the case as expressed specifically in the words "to arrest the judicial proceedings" and "hereby discharges the Committee from further consideration of the case," the Presbytery by a yea and nay vote refused to adopt the above resolution and to dismiss the case.

That on the said fifth day of October, A.D. 1891, the said Presbytery adjourned to meet on the fourth day of November, A.D. 1891, the day upon which the said citation was made returnable, and that at said adjourned meeting on the fourth day of November, A.D. 1891, the said Presbytery was charged as a Judicatory in accord-

ance with Standing Rule Number XL. of General Rules for Judicatories, and thereupon the said Presbytery proceeded in the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D., as recorded in the minutes of the meeting of the said Presbytery on said fourth day of November, A.D. 1891, which minutes are hereby referred to as a part of the record of the proceedings which culminated in the decision and final judgment from which this appeal is taken.

That on said November fourth, A.D. 1891, the said Dr. Briggs presented a paper purporting to be objections to the sufficiency of the said charges and specifications in form and legal effect, and that said paper was largely an answer to said charges or an argument upon the merits of the case, and was denominated by the said Dr. Briggs himself, a "Response to the Charges and Specifications submitted to the Presbytery of New York, by Prof. Charles Augustus Briggs, D.D.," and that the said Presbytery thereupon permitted members of the said Presbytery to discuss the merits of the main question on behalf of the accused before and without permitting the Prosecuting Committee to be heard on the merits of the case.

That a question as to the status of the Prosecuting Committee was raised, and the Moderator decided that the Committee was properly a Committee of Prosecution in view of the previous action of the Presbytery, and was in the house as an original party under the provisions of Section 10 of the Book of Discipline. That an appeal was taken from the decision of the Moderator, the question was divided, and the Moderator was sustained in the point, that the Committee was in the house as a properly appointed Committee of Prosecution, and

also sustained in the point that the Committee, as representing the Presbyterian Church in the United States of America, was an original party in the case.

That on said November fourth, A.D. 1891, the said Presbytery made and entered on its records its decision and its final judgment in the said case in the following words, to wit:

"*Resolved*, That the Presbytery of New York, having listened to the paper of the Rev. Charles A. Briggs, D.D., in the case of the Presbyterian Church in the United States of America against him as to the sufficiency of the charges and specifications in form and legal effect; and without approving of the positions stated in his Inaugural Address, at the same time desiring earnestly the peace and quiet of the Church, and in view of the declarations made by Dr. Briggs touching his loyalty to the Holy Scriptures and the Westminster Standards, and of his disclaimers of interpretations put on some of his words, deem it best to dismiss the case, and does so dismiss it."

That the said Presbytery also proceeded, as is more specifically set forth in the grounds of appeal and in the specifications of errors of the said Presbytery hereinafter alleged in accordance with Sections 95 and 96 of the Book of Discipline, and that some of the proceedings of the said Presbytery were omitted in whole or in part from the minutes of the said meeting on the said fourth day of November, A.D. 1891.

From the aforesaid action of the said Presbytery of New York on the said fourth day of November, A.D. 1891, in dismissing the case, which was, so far as said Presbytery is concerned, the final judgment of the said Presbytery in the case of the Presbyterian Church in the

United States of America against the Rev. Charles A. Briggs, D.D., in behalf of the Presbyterian Church in the United States of America, we, the undersigned, the Prosecuting Committee in the said case, do hereby appeal to your Venerable Body, the General Assembly of the Presbyterian Church in the United States of America, in accordance with the provisions of Sections 94 and 102 of the Book of Discipline.

The grounds of this appeal are as follows:

FIRST GROUND OF APPEAL.

Irregularity in the Proceedings of said Presbytery of New York.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that the said Presbytery of New York, while proceeding in said case under the provisions of Section 22 of the Book of Discipline, permitted the accused to read in the hearing of said Judicatory before he was required to plead "guilty" or "not guilty," and admitted to its records and consideration, a paper which purported to be objections to the sufficiency of the charges and specifications in form or legal effect, but which was in fact, and is as denominated by the said accused, a "Response to the Charges and Specifications submitted to the Presbytery of New York by Prof. Charles Augustus Briggs, D.D.," which paper is hereby referred to as a part of the record of the proceedings which culminated in the decision and final judgment, from which this appeal is taken, which paper or "Response" consisted to a great extent of statements of fact or arguments on the merits of the case. That the said statements of fact or arguments on the merits of the case should not have

been admitted or considered, by the said Judicatory at this stage of the trial, and the admission and consideration of the said paper or "Response" in so far as said paper was an answer upon the merits, to the charges and specifications, and in so far as it was in fact a presentation of the case upon its merits for the defense of the accused, was an error and irreglar.

SPECIFICATION SECOND.

In this, that the said Presbytery of New York during the proceedings of the said Presbytery in said case under the provisions of Section 22 of the Book of Discipline and before the said accused, was required to plead "guilty," or "not guilty," and when the said Presbytery should have considered nothing but the preliminary objections raised by the said accused as to the sufficiency of the charges and specifications in form and legal effect, permitted the Rev. Henry Van Dyke, D.D., Rev. Francis M. Brown, D.D., Rev. J. Hall McIlvaine, Jr., D.D., Rev. Thomas S. Hastings, D.D., Rev. Henry M. Field, D.D., and Rev. Spencer L. Hillier, members of the said Presbytery, to make pleas for the defense of the accused, which said pleas involved the merits of the case, while your appellant, acting as a Prosecuting Committee, was heard only touching the sufficiency of the charges and specifications in form and legal effect, and was debarred from presenting either testimony or argument touching the merits of the case, although your appellant, the Prosecuting Committee, offered to the said Judicatory to prove and sustain each and every one of the charges and specifications by competent evidence, and out of the Scriptures and by the Standards of the Presbyterian Church, but without receiving such evidence or hearing the arguments of the said Prosecuting

Committee in support of the same, the Judicatory voted to dismiss, and did dismiss, the case. (See Report of Official Stenographer, pages 51–59, 62, 66–68, 84, 78, 80, 82, 86, 92, 93, 98, 110, 120.)

SPECIFICATION THIRD.

In this, that the said Presbytery, by rendering the said decision or final judgment, dismissing the case, prevented amendments from being made to the said charges and specifications, although your appellant, the said Prosecuting Committee, stated to the Judicatory that the Prosecuting Committee could, in a very few minutes and without changing the general nature of the same, amend the said charges and specifications so as to completely obviate any objections raised by said Dr. Briggs, so far as said objections had any force or relevancy, as to the sufficiency of the charges and specifications in form or legal effect, and proposed, in the furtherance of justice, that the Committee should be permitted to make such amendments.

(See Report of Official Stenographer, page 41.)

SPECIFICATION FOURTH.

In this, that the said Presbytery in its decision and final judgment voted to dismiss the case, not because the Presbytery had determined that the charges and specifications were insufficient in form or legal effect, but because it, the said Presbytery, was "desiring earnestly the peace and quiet of the Church, and in view of the declarations made by Dr. Briggs touching his loyalty to the Holy Scripture and the Westminster Standards, and of his disclaimers of interpretations put on some of his words," whereas, the question of the sufficiency in form and legal effect of the charges and specifications, being

a preliminary objection, should have been formally passed upon or determined by the said Presbytery as provided for by Section 22 of the Book of Discipline before dismissing the case in the manner aforesaid.

SPECIFICATION FIFTH.

In this, that at the meeting of the said Presbytery held October fifth, A.D. 1891, the said Presbytery by a yea and nay vote refused to dismiss the case, by arresting the judicial proceedings, and discharging the Committee from further consideration of the case, that the vote to dismiss the case taken at the adjourned meeting on November fourth, A.D. 1891, was taken without action on the preliminary objections to the sufficiency of the charges and specifications as to form and legal effect, and without a reconsideration of the vote not to dismiss, which was taken on said fifth day of October, A.D. 1891, and therefore the vote to dismiss taken upon the said fourth day of November, A.D. 1891, was wholly illegal and null and void.

SPECIFICATION SIXTH.

In this, that the mode of procedure in the said Presbytery in the consideration of the said case was practically to hear the case of the accused upon its merits before and without hearing the presentation of evidence in support of the said charges and specifications.

SPECIFICATION SEVENTH.

In this, that in the paper or "Response" to the charges and specifications submitted by the accused, statements and arguments touching the merits of the case, referred to in the said action and final judgment of the said Presbytery as a ground for the said dismissal of and final judgment in the case by the use of the follow-

ing words, to wit, "declarations made by Dr. Briggs, touching his loyalty to the Holy Scripture and the Westminster Standards, and of his disclaimers of interpretations put on some of his words," were made and were given by the Presbytery the force of sworn, approbated, and subscribed testimony (contrary to the provisions of Sections 60, 61, and 62 of the Book of Discipline), whereas, the said Dr. Briggs, in making or giving the said declarations and disclaimers referred to in the said final judgment, was neither sworn as a witness, nor cross-examined by the Prosecuting Committee, nor by any member of the Court.

SPECIFICATION EIGHTH.

In this, that the said accused was permitted to present and file objections to a portion of the report of the Prosecuting Committee made to the Presbytery on October 5th, A.D. 1891, said portion being denominated by the said accused "The Preamble"; and in that the said Presbytery or some of the members thereof considered the objections of the said Dr. Briggs to the said Preamble a ground in whole or in part for the votes of the said members to dismiss the case or for the said decision of the said Presbytery, whereas the said portion of the said report or so-called Preamble was no part of the said charges and specifications, and was not served upon the said Dr. Briggs as a portion of the said charges and specifications to which he was cited to plead.

SPECIFICATION NINTH.

In this, that the said decision and final judgment of the said Presbytery dismissing the said case before the said Prosecuting Committee was permitted to present evidence in support of the said charges and specifica-

tions prevented the said Judicatory from going into private session, the parties, their counsel, and all other persons not being members of the body being excluded, for the "*careful deliberation*" required by Section 23 of the Book of Discipline, before the Judicatory shall proceed to vote and to judgment.

SECOND GROUND OF APPEAL.

Receiving Improper Testimony.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that in the paper or "Response" to the charges and specifications submitted by the accused, statements and arguments touching the merits of the case, referred to in the said action and final judgment of the said Presbytery as a ground for the said dismissal of and final judgment in the case by the use of the following words, to wit, "declarations made by Dr. Briggs, touching his loyalty to the Holy Scripture and the Westminster Standards, and of his disclaimers of interpretations put on some of his words," were made and were given by the Presbytery the force of sworn, approbated, and subscribed testimony (contrary to the provisions of Sections 60, 61, and 62 of the Book of Discipline), whereas, the said Dr. Briggs, in making or giving the said declarations and disclaimers referred to in the said final judgment, was neither sworn as a witness, nor cross-examined by the Prosecuting Committee, nor by any member of the Court.

SPECIFICATION SECOND.

In this, that statements and arguments were made by the Rev. Henry Van Dyke, D.D., Rev. J. Hall McIlvaine,

Jr., D.D., Rev. Thomas S. Hastings, D.D., Rev. Francis M. Brown, D.D., Rev. Henry M. Field, D.D., and Rev. Spencer L. Hillier as to the views and the orthodoxy of the said Dr. Briggs, which said statements and arguments are contained in the official stenographer's report of the trial, which report is hereby referred to as a part of the record of the proceedings which culminated in the decision and final judgment from which this appeal is taken, and which said statements and arguments were given by the Presbytery the force of sworn, approbated, and subscribed testimony, while the persons above named as making the said statements and arguments were not sworn as witnesses nor subjected to cross-examination by the Prosecuting Committee, nor by any member of the Court, as required by the provisions of Sections 60, 61, and 62 of the Book of Discipline.

THIRD GROUND OF APPEAL.

Declining to Receive Important Testimony.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that the said Presbytery, in making the said decision and final judgment from which appeal is now taken, made said decision and final judgment before any evidence was admitted in support of the said charges and specifications, although your appellant, acting as a Prosecuting Committee, was before the said Judicatory and was prepared and affirmed its ability and readiness to sustain by competent evidence each and every one of the said charges and specifications, while notwithstanding such presence, such affirmation and such offer of the said Prosecuting Committee, said Committee was not granted any opportunity to present such testimony or

evidence in support of the said charges and specifications. (See Report of Official Stenographer, pages 62, 66 and 67.)

FOURTH GROUND OF APPEAL.

Hastening to a Decision Before the Testimony was Fully Taken.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that the said Presbytery rendered a decision and final judgment in the case by dismissing the same before any proper or competent evidence whatever was taken by or submitted to the Judicatory in behalf of the accused to disprove the said charges and specifications.

SPECIFICATION SECOND.

In this, that the said Presbytery in making a decision and final judgment dismissing the case from which appeal is now taken, rendered a decision in the said case before any evidence was taken in support of the said charges and specifications, although the Prosecuting Committee was before the Judicatory prepared and affirming its ability and readiness to sustain by competent evidence each and every one of the said charges and specifications. (See Report of Official Stenographer, pages 62, 66 and 67.)

FIFTH GROUND OF APPEAL.

Manifestation of Prejudice in the Conduct of the Case.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that the said Presbytery received and was moved by unsworn and improper testimony in the mak-

ing of the decision or final judgment of the said Presbytery, said improper testimony being statements and arguments for the defense of the said accused, touching the merits of the said case, to wit: the aforesaid "Response to the Charges and Specifications submitted to the Presbytery of New York by Prof. Charles Augustus Briggs, D.D."

SPECIFICATION SECOND.

In this, that several members of the said Presbytery, hereinafter named, who voted to dismiss the said case did so vote for reasons other than the insufficiency of the said charges in form and legal effect, and presented to the said Presbytery, as reasons for voting to dismiss the said case, statements as follows:

Rev. Henry Van Dyke, D.D., said:

"First of all, is it for the interest of peace and unity and purity in the Church to try a man for his ecclesiastical life under circumstances which are calculated to exert a prejudice against him? It is not necessary to allude to all these circumstances to-day —confusions in the atmosphere that have enveloped this matter from the very first; turbulent voices from ways which have been indicated to-day. It is not necessary for us to state these circumstances. Here is the preamble, which contains a serious and painful allegation, which it is not even proposed to prove. * * * Is it for the interest of the peace and unity and purity in our Church to proceed to try a man for his life who has just made the professions of fundamental belief that have been made in the course of this paper that has been read here to-day? * * * Will it tend to unify and to purify our Church to take a man who holds those beliefs, to put him on trial for his ecclesiastical life? A heresy trial is

a great evil. The history of the Church proves it. It begets distinctions, suspicions, jealousies and strife. I admit that there are cases where it is a necessary evil, but to embrace the evil without a necessity is a sin against our brother, against the Church and against the work. * * * It is as clear as light that the Divine inspiration and the supreme authority of all the Holy Scriptures is not called in question to-day." * * *

(See Report of Official Stenographer, pages 51–59.)

Also Rev. J. Hall McIlvaine, D.D., said:

"That Inaugural Address contains nothing that he had not put in his books before. His books did not disturb the peace of the Church to any great extent, * * * and we have this Inaugural Address; but it was not to disturb the peace of the Church. It was the taking of phrases from it, the culling of words from it here and there, misrepresenting and misinterpreting them, sending them through the newspapers which breaks through the report, making them suspicious of heresies in the Presbytery until no one knew what Dr. Briggs had said. I remember a member of one of the Presbyteries wrote to me and said, 'What in the world are you standing by Dr. Briggs for, when he does not believe in the inspiration of the Scriptures?' and I wrote back to him, 'You know no more about this case than one unborn.' That is the case with three-quarters of the Presbyteries in the Assembly. It was through misrepresentations of Dr. Briggs's sayings and his position, that this whole country was stirred up. * * * Is it wise at this time, when so many different points are under discussion?—for example, here is this question of Moses and the Pentateuch—It is not wise for this Presbytery to array itself against a very large part of the scholarship of the world.

* * * It is not the time to settle these questions about Moses and the Pentateuch."

(See Report of Official Stenographer, pages 79–86.)

Also Rev. Thomas S. Hastings, D.D., said:

"As I have listened to that remarkable paper which Dr. Briggs presented to us this morning * * * I could not see how any man who had in his heart a desire for the honor of the Church and her Blessed Head could permit this trial to go on. * * * I do desire that this case should stop where it is; and that this beloved brother should be permitted to go back again to the important work to which the Lord has called him, for I have lived long enough to know that a heresy trial burns over the ground, and blasts, and curses everything that is fairest and best—for the sake of these beloved pastors and the Churches which they represent, I desire that this case may stop where it is. * * * sixty-three Presbyteries throughout the country have been interfering with the rights and prerogatives of this Presbytery in a way unparalleled in the history of the Church. * * * We approach this trial with the impossibility of fairness staring us in the face, because without hearing, without judicial procedure, and without respect to the original right of the Presbytery, the stigma of the Court, the highest Court of our Church, has been put upon my beloved brother; and if there were no other reasons than that, I, for one, should be here to argue that we cannot fairly try the case. Justice is impossible under the circumstances; * * * Then I must say I have one other reason for arguing for the dismissal of this case. I know Dr. Briggs's views probably as well as any man in this house. I know that those charges are not true. I mean to say nothing against the character or integrity of the

Committee; but I know of my own knowledge that he is not guilty under those charges and specifications."

(See Report of Official Stenographer, pages 92–94.)

Also Rev. Francis M. Brown, D.D., said:

"I would like to say that no restriction whatever is put around any member of the Presbytery in explaining his views to as great length as he pleases in any proper way. The public prints are open. It is simply a question as to whether this Presbytery, in view of all these facts, sees fit to arrest the debate and dismiss the case."

(See Report of Official Stenographer, page 120.)

Also Rev. Henry M. Field, D.D., said:

"I am afraid of this Committee. * * * We have created a Committee over which we have no power whatever. We are in an omnibus, and they have the reins, and will drive us whither they will. This is the very reason that I want to ask the Presbytery to stop here. If we can stop it, let us stop it now."

(See Report of Official Stenographer, page 98.)

Also Rev. Spencer L. Hillier said:

"I am persuaded many of us, like myself, in the interest of peace and justice and righteousness feel that we want this matter adjusted and finished on a proper basis. We want to give a full and free and thorough expression of our faith and confidence to Dr. Briggs in what he has said."

(See Report of Official Stenographer, page 110.)

SPECIFICATION THIRD.

In this, that the said Prosecuting Committee in the furtherance of justice was not given opportunity to present amendments to the said charges and specifications

although the said Prosecuting Committee proposed to amend the same according to the provisions of Section 22 of the Book of Discipline.

(See Report of Official Stenographer, page 41.)

SPECIFICATION FOURTH.

In this, that while the merits of the said case were presented by and for the accused under the guise of submitting objections to the sufficiency of the said charges and specifications in form or legal effect, the said appellant, acting as a Prosecuting Committee, was not permitted to introduce testimony or evidence in support of the said charges and specifications, although the said Committee was prepared so to do, and affirmed its ability and readiness to sustain, by competent evidence, each and every one of the said charges and specifications.

(See Report of Official Stenographer, pages 41, 62, 66, and 67.)

SIXTH GROUND OF APPEAL.

Mistake or Injustice in the Decision.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that said decision and final judgment of the said Presbytery of New York, hereby appealed from, may be interpreted as an approval by the said Presbytery of the utterances in the Inaugural Address of the said Dr. Briggs for which he was and is called in question, and upon which the charges and specifications were based.

SPECIFICATION SECOND.

In this, that the said Presbytery of New York voted to dismiss and did dismiss and passed final judgment in

said case, not because of the insufficiency of the said charges and specifications in form or legal effect, but for the mistaken and unjust reason expressed in the said final judgment in the following words, to wit: "desiring earnestly the peace and quiet of the Church and in view of the declarations made by Dr. Briggs, touching his loyalty to the Holy Scriptures and the Wesminster Standards, and of his disclaimers of interpretations put on some of his words."

SPECIFICATION THIRD.

In this, that in the aforesaid decision and final judgment of the said Presbytery of New York in dismissing the said case the words "without approving of the positions stated in his Inaugural Address" and "disclaimers of interpretations put on some of his words" are vague, indefinite and uncertain in their application and are in no sense a sufficient answer to or refutation of the alleged hurtful errors of the said Dr. Briggs contained in the said Inaugural Address upon which the said charges and specifications were based.

SPECIFICATION FOURTH.

In this, that the declarations made by Dr. Briggs touching his loyalty to the Holy Scriptures and the Westminster Standards and his disclaimers of interpretations put on some of his words, to which reference is made in the resolution of the said Presbytery dismissing and expressing its final judgment in the said case are not, in any sense, a retraction or refutation of the hurtful errors contained in said Inaugural Address upon which the said charges and specifications tabled against him were based.

SPECIFICATION FIFTH.

In this, that by the dismissal of the said case by the said Presbytery of New York the earnestly desired peace and quiet of the church cannot be secured.

SPECIFICATION SIXTH.

In this, that the mode of procedure in the said Presbytery in the consideration of the said case was, practically, to hear the case of the accused upon its merits before and without hearing the presentation of evidence in support of the said charges and specifications.

SPECIFICATION SEVENTH.

In this, that the said decision and final judgment of the said Presbytery dismissing the said case before the said Prosecuting Committee was permitted to present evidence in support of the said charges and specifications, prevented the said Judicatory from going into private session, the parties, their counsel and all other persons not being members of the body being excluded and prevented the "*careful deliberation*" required by Section 23 of the Book of Discipline, before the Judicatory shall proceed to vote and to judgment.

And in conclusion your Appellant prays your Venerable Body, the General Assembly of the Presbyterian Church in the United States of America, to receive and issue this appeal, and to take therein such action as in your wisdom may seem best, in order to secure and preserve the purity and peace of our Church.

GEORGE W. F. BIRCH,
JOSEPH J. LAMPE,
ROBERT F. SAMPLE,
JOHN J. STEVENSON,
JOHN J. McCOOK,
Prosecuting Committee,
Appellant.

VI.

ARGUMENT AGAINST ENTERTAINING THE APPEAL.

Mr. Moderator, Ministers and Elders of the General Assembly:

I appear before you at this time in accordance with the provision of the Book of Discipline (99), to object to the entertainment of the Appeal entitled, "The Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D. Appeal to the General Assembly from the decision of the Presbytery of New York, dismissing the case, November 4, 1891."

The Book of Discipline makes the defendant or appellee the only party competent to resist the entertainment of the Appeal. It is necessary for the defendant to appear not only in his own behalf and in defense of the action of his Presbytery; but also, as will be shown later on, in order to maintain the rights of the Synod of New York, and also to show due respect to the General Assembly.

The defendant is, however, placed in a position of some embarrassment, in that he is compelled, in the interests of justice and orderly procedure, to defend the action of his Presbytery in dismissing the case against him; action which, however favorable it may have been to him, was not asked for by him, and for which he has no manner of responsibility. On October 5, 1891, charges and specifications were placed in his hands by order of the Presbytery. On November 4, 1891, in ac-

cordance with the Book of Discipline (22), he filed "objections to the sufficiency of the charges and specifications in form and in legal effect," and respectfully submitted these objections to the Presbytery for their judgment. It was the right of the Presbytery to determine these "preliminary objections"; and then after recognizing their validity, at their discretion, either (1) to dismiss the case or (2) to permit amendments to the specifications or charges. The defendant acquiesced in the decision of the Presbytery to "dismiss the case," although the dismissal was laden with sundry other reasons, which it was proper for the Presbytery to give under the circumstances, but which had no manner of relevancy to the objections he had presented to the Presbytery as to the "sufficiency of the charges and specifications in form and in legal effect." It seemed to the defendant and his friends therefore that it would be more proper for some other person to defend this action of the Presbytery, and it was their desire that Dr. Francis Brown or Dr. Charles L. Thompson should undertake this task. But owing to circumstances, which it is not necessary to consider, these friends of the defendant were not sent by the Presbytery as commissioners to the Assembly, and it became necessary for the defendant either to select for counsel some one who was not altogether familiar with the case, or else to appear before the Assembly himself. I appear before you therefore not by choice, but under constraint of duty.

The defendant is suffering under another embarrassment due to the situation. He is compelled to make a legal argument against the entertainment of this Appeal in the interest of orderly procedure in our judicatories; and thus he may unconsciously present the appearance of interposing obstacles in the wayof his own trial. He

can only say that he has always been ready to meet any "charges and specifications sufficient in form and in legal effect," which may be made against him at the bar of his Presbytery, and to disprove them. In no judicatory of the Church, in no court in the world, could he be asked to plead against "charges insufficient in form and in legal effect," or to waive rights guaranteed by the constitution, or to neglect duties required by the position in which God has placed him. If these appellants return to the Presbytery of New York without winning their Appeal, they still have the privilege as individual members of the Presbytery, of tabling "charges sufficient in form and in legal effect," if they are able to frame them—and of pressing them to trial. If, on the other hand, the Assembly entertain the Appeal and sustain their objections to the action of the Presbytery, they could not gain any more than a direction to the Presbytery to begin again exactly where they left off when they dismissed the case. All this agitation of the Church for the past months, all the precious time of the Assembly consumed in hearing the parties, can at the utmost make this simple difference, namely, nothing more than determine whether these prosecutors shall represent the Presbyterian Church in the United States of America, in any further prosecution; or whether the responsibility for any further prosecution shall rest upon them as individuals. The defendant greatly prefers that, if they prosecute him they shall prosecute as individual prosecutors. He feels aggrieved that his Presbytery has been prosecuting him by this committee. He feels still more aggrieved that this committee has claimed to represent the Presbyterian Church in the United States of America, and thus made it appear to the public that the whole Presbyterian Church was engaged in prosecuting him. It

seems to him that this gives an unfair advantage to his prosecutors. But at this stage of the case, the defendant thinks that it is not worth much time or labor to gain his preference. If the entertainment of this Appeal did not involve the forfeiture of important rights of the defendant and of his co-presbyters, if it did not carry with it an intrusion upon the functions of the Synod of New York, if it did not violate the constitution of the Church and establish precedents of such injurious effect as to impair our whole system of jurisprudence; and if the absence of the defendant might not have been construed as disrespectful to your venerable body, he would not have taken the long journey across the continent to appear before you at this time, but would have remained at home and allowed the Appeal to have its free course without opposition on his part.

A very simple task is now imposed upon me by the Book of Discipline (99), namely, to present reasons why you should not entertain this Appeal. I have objections to the Records in the case as prepared by the prosecuting committee. I am prepared to object to their statement of the history of the case as presented in their Appeal, and to disprove all their objections and specifications of objection to the action of the Presbytery of New York on November 4, 1891. All these I reserve for their proper place in the order of procedure if the Assembly should proceed so far as to require them. I confine myself at this stage to the presentation of reasons against the entertainment of this Appeal by this venerable Assembly.

There are many reasons weighty and just, why the General Assembly should not entertain this Appeal. I shall not consume your valuable time by unfolding them all before you. You do not allow me sufficient time to

do this. If necessary, those which I omit may be presented at the proper time by the members of the judicatory. There is one line of argument which seems so convincing that I shall limit myself to it alone. I shall base my objections upon a single provision of the Book of Discipline (102) that: "*Appeals are, generally, to be taken to the judicatory immediately superior to that appealed from.*" The judicatory immediately superior to the Presbytery of New York is the Synod of New York. Appeals from the Presbytery of New York are generally to be taken to the Synod of New York. The appellants are doing an unusual thing in passing over the Synod of New York and taking their appeal directly to the General Assembly. The adverb "generally" permits exceptions, but they must be real exceptions. All exceptions to rules must have exceptional reasons. The presumption is always against exceptions.

We claim that exceptions may not be made at the discretion of the appellants. It is not for them to determine whether they have exceptional reasons. They make their appeal in an exceptional way at their own risk. They are not entitled to sympathy or help under the circumstances. We also claim that exceptions to the law of appeals may not be altogether at the discretion of the General Assembly. We may safely hold that an exception cannot lawfully be made by the General Assembly which would involve a violation of the rights of parties, or an intrusion upon the privileges and rights of the lower judicatories, or an infringement of the constitution of the Church, or any departure from historic usage in our denomination.

Reasons must be presented to this venerable body by the appellants which you can recognize as valid exceptions within these limits, before you can legally enter-

tain their Appeal. And even if this Assembly could decide that there are exceptional reasons for entertaining this Appeal, you cannot lawfully entertain it in the face of valid objections made by the defendant. I propose to show you that there are no exceptional reasons why you should entertain this Appeal, and that there are insuperable objections which should induce you to reject it.

I. *The Reasons presented by the appellants are not such as to justify the General Assembly in entertaining their Appeal.*

Four reasons are given by the appellants:

(1). "Believing that the trial of the said Dr. Briggs is one of the most important in the history of the Presbyterian Church, by reason of the great and dangerous errors contained in the address of the said Dr. Briggs at his inauguration as Professor of Biblical Theology in the Union Theological Seminary, delivered on the 20th day of January, 1891" (page 3, line 5, *seq.*).

The appellants give this reason as their belief. If it was their belief it was a valid reason for the tabling of charges at the bar of the Presbytery. It is also a valid reason why they should appeal to the Synod of New York, provided they had the right of appeal, which we do not concede. But is it a valid reason why they should pass over the Synod of New York and appeal to the General Assembly? If their belief is a well-grounded one, if they think that they can sustain their charges before a higher judicatory, the Synod of New York is the judicatory before which they should go. They cannot with propriety pass over the Synod of New York without assigning valid reasons for the opinion that the Synod of New York may not do them justice. They

make no objection to the Synod of New York as a competent judicatory. Indeed they are debarred from such objection by the fact that they unite with others in a Complaint to the Synod of New York covering essentially the same ground as the Appeal; thus reserving to themselves a chance before the Synod, if they should fail before the General Assembly. If their case were a good case, it is altogether likely that they could win their cause before that judicatory. It is a reflection upon the Synod of New York for a committee claiming to represent the Presbyterian Church in the United States of America to appeal over the head of the Synod to the Assembly, and only go to the Synod if the General Assembly fail them.

It is also a reflection upon this General Assembly for this committee to make their Appeal to you, reserving to themselves the right of using their Complaint to the Synod if you do not give them the decision they require. If, as they claim, "the trial of the said Dr. Briggs is one of the most important in the history of the Presbyterian Church," that is a reason why the Synod of New York, the largest Synod in the Church, the intermediate judicatory, ought to have its constitutional share in the proceedings. That is a reason why the Appeal should go to such an honorable judicatory. That is a reason why the Synod cannot be passed by without grave injustice to that Synod. If, as the prosecutors claim, "there are great and dangerous errors contained in the address of the said Dr. Briggs," that is a reason why the Synod of New York, within whose jurisdiction the supposed errors have been promulgated, should have its constitutional right of dealing with them. It is the privilege of the Synod to condemn such errors, or to defend the accused against his prosecutors. The As

sembly cannot take the case out of the hands of the Synod without intruding upon the rights and privileges of the Synod in so important and serious a case.

If the Assembly could entertain this reason you would wrong the defendant. The prosecutors may believe that there are great and dangerous errors contained in the address of Dr. Briggs, but this judicatory cannot believe this as a judicatory, or use such a belief as a reason prior to trial. To act on such a belief would be to prejudge the case and would in itself destroy the impartiality and fairness of this tribunal, and in so far vitiate any judgment you might give in the case. If the General Assembly could endorse this reason, it would state an opinion and belief that "there are great and dangerous errors contained in the address of Dr. Briggs." It would condemn the defendant in the supreme court of the Church after his own Presbytery had dismissed the charges against him. It would give a judgment while there are no charges pending against him. It would virtually sentence him before he had been on trial in any court of the Church. The defendant does not think it credible that this General Assembly could do him such a wrong.

(2). The second reason given by the appellants is:

"Believing that the distinct and definite condemnation of these errors by the supreme judicatory of the said Presbyterian Church is necessary in order to prevent their spread and influence in the denomination" (p. 3, l. 15, *seq.*).

The appellants in this reason show that they are aiming to secure a condemnation of the errors of the defendant by the supreme judicatory. But the supreme judicatory cannot condemn the defendant or his errors without a trial. The supreme judicatory cannot go to trial

because it has no original jurisdiction in the case. The General Assembly can have no appellate jurisdiction until the defendant has been tried in his own Presbytery and a verdict has been given there. Moreover, the supreme judicatory cannot entertain this reason of the appellants without prejudging the case. It has not yet been shown that there any such errors in the address of the defendant. It has not yet been shown that it is necessary to prevent their spread and influence in the denomination. It has not yet been shown that it is important that any court of the Church should condemn them. Such things can be done with propriety only after trial in the court of the Presbytery. On the other hand, it may be that the appellants are in error in their belief and opinion. It may be that the defendant is right in his opinions and that the prosecutors are in error. He claims that his address is in entire accord with Holy Scripture and the system of doctrine taught in the Westminster Confession. Again and again he has affirmed his adherence to the Confession and to the Holy Scriptures. He is entitled to the presumption of innocence until he is proven guilty after trial. His position and experience as a professor in a theological seminary for eighteen years past give the presumption in his favor. The action of the Presbytery of New York in dismissing the case against the defendant is conclusive against the appellants' view of the case, until their decision is reversed by due course of appeal. But in fact at this stage the Assembly cannot entertain any reasons that have to do with the merits of the case. They cannot entertain the opinions and beliefs of their appellants or the opinions and beliefs of the defendant in this case. They can only inquire whether this is a valid reason for making this Appeal an exception to the law of

appeals. Inasmuch as this reason, like the previous one, goes into the merits of the case and presupposes the guilt of the defendant, the court cannot entertain it without doing him grave injustice and wrong.

(3). The third reason given by the appellants is:

"Believing that a special responsibility rests upon the General Assembly in cases that affect the doctrine of the Church and concern the promotion of truth and holiness through all the churches under its care" (p. 3, l. 20, *seq.*).

This is a general statement to which no Presbyterian could make any objection, but it is not a reason why this Appeal should be entertained by the General Assembly. The General Assembly has a special responsibility in cases of doctrine, so have all the Synods and all the Presbyteries in the Church. The law is that "appeals are, generally, to be taken to the judicatory immediately superior to that appealed from."

Are there any special reasons why this law should be departed from by this Appeal? We can hardly suppose that the appellants would have us think that in all cases of doctrine appeals should be taken to the General Assembly without bringing them before the intermediate court of the Synod. For such an opinion could not be entertained for a moment in any Presbyterian body in the world. They must show that the General Assembly has a special responsibility as to the doctrines contained in the defendant's address which they do not have as regards other doctrines in other writings and by other persons, in order to make this Appeal an exceptional one under this reason. This proof they do not offer. Therefore the reason is invalid and cannot legally be entertained by the Assembly. Furthermore, to entertain the Complaint for this reason, would introduce a

new and dangerous theory of the authority of the General Assembly. It would exalt the authority of the Assembly in dealing with matters of doctrine to the depreciation of the authority of presbyteries and synods in this regard. For if a special exception could be allowed as to the doctrines contained in the Inaugural Address of Dr. Briggs, it would establish a precedent for special exceptions in the case of other doctrines of other persons. The inevitable result of such exceptions would be to undermine and impair the constitution of the Church which assigns to presbyteries and synods duties in cases that affect the doctrine of the Church, as well as General Assemblies.

(4). The fourth reason given by the appellants is:

"In view of the desirableness of the speediest settlement of this most important question" (p. 4, l. 2, *seq.*).

An ancient proverb gives us an important lesson applicable to this reason. "More haste, less speed." If the appellants desired a speedy settlement of this most important question, why did they not acquiesce in the decision of the Presbytery of New York when they dismissed the case? The appellants are solely responsible for reopening the case. If they were dissatisfied with the dismissal of the charges and specifications on account of their insufficiency, the speediest way would have been for them to frame new "charges and specifications sufficient in form and legal effect," if they were able to frame them. They might then have had a trial and a verdict during the past winter. They appeal to the General Assembly over the head of the Synod, and thus involve the case in a large number of difficult and delicate questions of law under our new Book of Discipline, which book has not yet been tested and officially defined. They override the rights of the defendant and

of his co-presbyters, and they ignore the rights of the Synod of New York; and they disregard the constitution of the Church, in order to appear before your venerable body with their Appeal for the "speediest settlement." This is haste, but it is not speed. This supreme court of the Church cannot properly entertain this reason. Why is speed necessary in this case? The appellants claim that the case is one of the most important in the history of the Presbyterian Church. The importance of the case is a reason why all the proceedings should be conducted with caution and with deliberation. The defendant claims that the case has already been involved with unnecessary difficulties because of the haste with which it was undertaken. In his absence from Presbytery, while he was ill upon his bed at home, without notification to him, the Presbytery appointed a committee composed chiefly of the present prosecutors, to investigate his Inaugural Address. He protested against this proceeding at the next meeting of the Presbytery, claiming that no action should have been taken until he had had an opportunity of making a statement before the Presbytery. No opportunity has been given him to make any statement up to the present time. The only thing he has been able to do has been to present his protest last spring, and then in the autumn to file his objections to the "sufficiency of the charges and specifications as to form and legal effect." The defendant claims that if he had the opportunity afforded him by the law and usage of the denomination, of making an explanation before the Presbytery, prior to the appointment of the committee of investigation, no committee would have been appointed and no process would have been undertaken. The defendant may be wrong in his opinion; but he must, in accordance with his convictions,

claim that the case was entered upon with undue haste by the members of this committee, and that thereby great injustice was done him. If the General Assembly could entertain this Appeal in order to the "speediest settlement of the case," a still greater fault would be committed. It is not in accordance with equity that so important a case should have "the speediest settlement." A speedy settlement, a hasty decision, might do great injustice not only to the defendant, but also to many other important interests in our Church.

We have tested the four reasons of the appellants for making their Appeal an exception to the law of Appeals. We have shown that these reasons cannot be entertained by the Assembly, without prejudging the case and doing wrong to the defendant, without doing grave injury to the Presbytery of New York, to the Synod of New York, and so indirectly to all the presbyteries and synods of the Church. The General Assembly cannot entertain the Appeal without violating the law that

"Appeals are, generally, to be taken to the judicatory immediately superior to that appealed from" (102).

II. *This Appeal cannot be entertained because there are no precedents to justify it.*

In the Presbyterian Digest Dr. Moore gives only two cases in which the General Assembly has recognized exceptional reasons for passing by the Synod. The appeals were made by defendants who had been condemned as guilty by their presbyteries. In the last of these, the case of the Rev. W. W. McLane, the defendant had leave to withdraw his appeal, and the case was not tried by the Assembly. The only other case mentioned was that of Mr. Bourne in 1816, in which the sentence of the

Presbytery of Lexington deposing Mr. Bourne was reversed and a new trial ordered. But in this case the Synod of Virginia censured the Presbytery of Lexington for allowing an appeal from their decision directly to the Assembly. It is plain, therefore, that this is no precedent for an Appeal directly to the General Assembly by a prosecutor. The Appeal was exceptional because a minister had been deposed. All law protects the innocent and gives the presumption to the defendant. A minister who has been declared guilty by a Presbytery might suffer serious injury if an appeal had to go in its regular course through the Synod to the General Assembly. Such a man might prefer a speedy decision of his case by the supreme court, and waive his right of appeal to the intermediate court. There are other similar cases in the history of Presbyterian law. But a prosecutor is in a different situation. He suffers no injury by delay. He is deprived of no right by the trial of the case before the intermediate court in the regular way. There is no reason why he should insist upon a speedy determination of the case. The law of appeals does not allow exceptions in the interests of prosecutors, but solely in the interest of the defendants, and even these must give exceptional reasons.

It is the established usage of the supreme court to refer appeals to the synods. A few examples will be given:

(1). Two appeals of Samuel Lowrey were dismissed in 1822 "because the appellant had not prosecuted his appeals before the inferior judicatories."

(2). Matthew H. Rice had leave to withdraw his appeal in 1830, on the ground that "no reasons are assigned by the appellant for making this appeal to the General Assembly instead of the Synod."

(3). The church at Cooperstown "had leave to with draw their appeal in 1834, and prosecute it before the Synod of Utica."

(4). John Turbitt, in 1859, had leave to withdraw his appeal from the decision of the Presbytery of Peoria deposing him from the ministry, "because the case had not been presented before the Synod."

(5). The papers in the case of the appeal of Francis M. Denmick in 1872, were returned to the parties presenting them, "that they may be adjudicated by the Synod of Iowa, South."

These examples of appeals show sufficiently that the practice of the General Assembly has been in accordance with the law of appeals. Appeals have been allowed in a very few exceptional cases, but these have been for reasons clearly exceptional and where no wrong was done to any party or any court.

The reluctance of General Assemblies to entertain appeals directly from presbyteries may be seen in the case of the Presbytery of Philadelphia in 1870 against the Presbytery of Luzerne for an alleged invasion of Presbyterial jurisdiction. A special reason was given in this case, namely, "because of these presbyteries having no common synodical relations." They belonged to different synods. No synod could judge between them. It would seem, therefore, that this was an appropriate case for the General Assembly. But the Assembly preferred another way. A new synod had been organized, which embraced both presbyteries. Therefore the General Assembly proposed that "the new Synod take up the case and that the Presbytery of Luzerne cease all action until the Synod decides."

This case shows clearly that there may arise cases between presbyteries in which the General Assembly can

be the only superior court common to them both. The cases of aggrieved defendants and of presbyteries under different synods and other similar cases which might be mentioned, give sufficient ground for the insertion of the adverb "generally" in the law of appeals so as to allow of such necessary exceptions. But this qualification was never designed in the interest of prosecutors, and so far as we can learn has never been used in the interest of prosecutors.

If the Assembly could entertain this Appeal of the prosecutors, they would establish a new precedent which might have very unfortunate results, because it would enable any prosecutor in any presbytery to leap his Synod and bring his case before the whole Church, if he in his judgment thought there were good reasons for a speedy determination of the case. And though the General Assembly might refer it to the Synod after due consideration, yet it would be necessary to hear the parties and consider whether to entertain the case or not. A door would be opened by which many cases might be forced before the Assembly, which in due course of procedure, according to all precedents and the previous interpretations of the Book of Discipline, would go before the synods.

It is also worthy of consideration by every elder and minister that law and precedents govern the passing over of all intermediate courts. If it is lawful in the case of a minister to pass over the Synod to the Assembly, it is just as lawful in the case of a layman to pass over the Presbytery, and appeal from the session directly to the Synod. It is easy to see what unfortunate results might spring from a decision of the Assembly to entertain this Appeal, which may involve an entire change in procedure before all our judicatories; and all this, in the inter-

est of prosecutors and against the interest of defendants. The right of every minister and elder—yes, of every communicant, is threatened by the proposed entertainment of this Appeal.

III. *This Appeal cannot be entertained because it would deprive the defendant of a right.*

The defendant has a right to the consideration of his case before his Synod. The entertainment of this Appeal would deprive him of this right. The Presbytery of New York dismissed the case against him. He appears before this venerable body with this action of his Presbytery at his back. The defendant has reason to believe that if this Appeal were entertained by the Synod of New York, the Synod of New York would sustain the Presbytery in dismissing the case. The defendant would then stand in a much better position before the Church and the world with the great Synod of New York at his back, and if the appellants should then carry their Appeal to the next General Assembly, the defendant would have a much stronger case before that Assembly than it is possible for him to have before this Assembly. The defendant has a right to maintain his cause and to secure the vindication of his Synod. But if the General Assembly could entertain an Appeal and deprive a party of such a right, it might do him so serious a wrong as to compel him to appeal to the civil courts of his country for vindication.

The law of appeals does not grant the General Assembly a right to make an exceptional case in the interest of the appellants to the detriment of the interest of the appellee, and against his protest. The law of appeals does not permit the Assembly to do the defendant a wrong and deprive him of a right which he enjoys under

the constitution. No exceptional reasons whatever can justify a court in doing a wrong. The defendant has a right to every opportunity that the law allows him in self-defense and in vindication.

IV. *The Appeal cannot be entertained because it might deprive more than one hundred ministers and elders of the Presbytery of New York, who have taken action in the case by their Complaint to Synod, of their right of Complaint.*

A Complaint is pending before the Synod of New York against the decision of the Presbytery of New York, Nov. 4, 1891, in sustaining by a vote of 64 to 57 the ruling of the moderator as follows:

"1. That the committee which preferred charges against Dr. Briggs (presented to Presbytery Oct. 5, 1891), was a committee of prosecution under section 11 of the Revised Book of Discipline;

"2. That the committee was in the house on the day on which the citation was returnable (Nov. 4, 1891, as aforesaid), as an original party;

"3. That the committee as an original party, was virtually and practically independent of the Presbytery."

This Complaint bears the signature of 114 ministers and elders of the Presbytery of New York.

According to the Book of Discipline (83), "a complaint is a written representation, made to the next superior judicatory." A complaint cannot be carried from the Presbytery to the General Assembly. Therefore the only redress the defendant had against the decision of the Presbytery in these important matters was by complaint to the Synod of New York. This Complaint involves the very existence of this committee which has appealed; whether they were appointed as a

prosecuting committee, whether they are an original party, whether they have any right to act independent of the Presbytery, and against the Presbytery. If the Synod should decide any of these questions in accordance with the views of the complainants, the appellants would have no present right of appeal, and could not, therefore, appear before you as appellants at this time. The defendant does not raise those objections here, because they go before the Synod of New York for its decision, and he reserves the right with others, his co-complainants, to argue these questions before the Synod of New York. If the General Assembly, without the consideration of these fundamental questions which are not before your venerable body, and which cannot legally come before you at this time, if you should recognize these appellants, you decide by indirection three questions of vast importance pending before the Synod of New York, which only that Synod has jurisdiction to decide under present circumstances. You might damage the complainants in their rights before the Synod. You would compel the Synod either to disregard the rights of the complainants, and refuse them a hearing because the case had been already decided by the Assembly, or you would force the Synod to disregard the action of the Assembly in order to protect the complainants in their rights. The Synod would be placed in a cruel dilemma. They must either do wrong to the majority of the great Presbytery of New York, or they must protect the rights of the complainants in that Presbytery even at the risk of conflict with the General Assembly.

The complainants have sought the only mode of redress allowed them under the constitution of the Church, and therefore the Assembly cannot entertain this Appeal without injuring them in their rights, or possibly with-

out depriving them of their rights, or without risking an unfortunate conflict as to jurisdiction between the Synod of New York and the General Assembly.

V. *The Appeal cannot be entertained because the Assembly would thereby intrude upon the functions of the Synod of New York.*

The Synod of New York is the appropriate court under the constitution to entertain an appeal from a judgment of the Presbytery of New York. It has the right to entertain the appeal if the appeal be in order. The General Assembly would deprive it of a right if it interposed its authority between the Synod and the Presbytery. Furthermore, a Protest and two Complaints are pending before the Synod of New York, bearing on matters essentially connected with the Appeal. It is the duty of the Synod of New York to consider all these papers brought properly before it. The appellants have reserved themselves a hearing before the Synod, should they fail in their Appeal to your venerable body. A complaint signed by the appellants and their friends is pending before the Synod, touching the same matters as those contained in the Appeal. The whole case comes before the Synod. Only a part of the case, and that part the one prepared by the prosecution, can come before the General Assembly. If the General Assembly prejudge the case without considering the Complaint to come before the Synod, what will be the duty of the Synod under the circumstances? Can they refuse the complainants a hearing? If they hear the Complaint coming before them in the regular way, shall they not consider it and give their judgment upon it? Is it proper for the General Assembly to prejudge a case which must come before the Synod, and so put the

Synod in the dilemma of doing injustice to the complainants, or of making a decision the reverse of that of the General Assembly? It might be that the Synod would take a different view of the case from the General Assembly, requiring an appeal to the next Assembly. What then ought the Presbytery of New York to do, if the Assembly sustain the appellants, and if the Synod decide that they had no right of appeal? What would be the consequences of such a conflict of jurisdiction brought on by a premature decision by the supreme judicatory? The next General Assembly might reverse the decision of the present General Assembly, and the whole case might be suspended during this period of conflict. Is it prudent to run such risks? Is there any prospect of speedy settlement in that direction?

The Synod of New York has 30 presbyteries, one-seventh of the 216 presbyteries of the Church; 1,126 ministers, more than one-sixth of the 6,223 ministers of our Church; 165,159 communicants, more than one-fifth of the 806,796 communicants of our Church. If there ever was a Synod which might be trusted to decide an important matter, to sit in judgment in a difficult case, surely the Synod of New York is such a Synod. Here are 30 presbyteries which send delegates to the Synod; these are spread over the Empire State, sufficiently near to be interested in a case in the Presbytery of New York, to easily learn all the facts and circumstances, and yet sufficiently remote to decide it without personal considerations and complications.

Here is a Synod which contributes to the work of Home Missions $312,756, nearly one-third of the sum total given by the whole Church for that great cause, $995,625. It contributes for Foreign Missions, $203,892, or more than one-fourth of the whole contribution

to that cause of God, $784,406. Such a Synod is deserving of the confidence of the General Assembly. Such a Synod ought not to be passed over lightly by any committee, even if they should prove in some yet undiscovered way to represent the Presbyterian Church in the United States of America.

VI. *The Appeal cannot properly be entertained because it should be consolidated with the Complaint from the same parties pending before the Synod.*

The law is, "If a case should be carried to an appellate judicatory by both Appeal and Complaint, the same shall be consolidated for trial, if deemed proper by the appellate judicatory" (93). The Appeal of the prosecution is before the General Assembly, their Complaint is pending before the Synod. It is impossible to comply with the law unless the Appeal go where the Complaint is. The Complaint cannot legally come before the General Assembly. The Appeal may legally come before the Synod of New York. Therefore, the only way in which the Appeal and the Complaint can be consolidated is for the General Assembly to advise the prosecution to proceed to the Synod with their Appeal.

VII. *The Appeal is irregular because notice was given to the Presbytery of Appeal to the Synod of New York.*

The committee gave notice to the Presbytery through their chairman, Dr. Birch, of appeal to the Synod. (See Stenographer's Report, p. 146; Records in the case, p. 149.) The change of the Appeal to the General Assembly seems to have been an afterthought, and after the right of appeal had been exhausted by their notice of appeal to the Synod. The appellants knew of the Protest of Dr. Van Dyke and the Complaint of Dr. Brown

and others to the Synod of New York, of which notice was given to Presbytery at the time. The complainants and the appellants ought to meet before the bar of the Synod. We claim that this change of appeal was unfair, irregular, unlawful and without precedent, and that this is a ground why the General Assembly should not entertain it. It gives the appellants a hearing before the Assembly when, by the law of the Church, the complainants can only be heard before the Synod. Any decision of the Assembly under the circumstances could only be *ex parte* and unjust. The only case similar to this which we have found in the history of our Church was the appeal of Charles Yale, in 1826, from the sentence of the Presbytery of Bath, "deposing him from the gospel ministry." This was dismissed by the General Assembly "because it appeared that Mr. Yale gave notice to said Presbytery that he should appeal to the Synod of Geneva seven days before he signified his desire to the moderator of Presbytery to appeal to the General Assembly." (Digest, p. 556.)

If the Assembly follow this precedent they will dismiss this Appeal because the case is exactly parallel. These appellants gave notice to the Presbytery of New York of appeal to the Synod of New York several days before they signified their desire to the clerk of the Presbytery to appeal to the General Assembly.

VIII. *The Appeal cannot be entertained because the Complaint to the Synod, signed by more than one-third of those who were present and voting in the Presbytery, acts as a stay until the Synod decides whether the committee has a right to exist, and therefore a right of Appeal.*

A complaint is now pending before the Synod of New York. It has been lodged with the Stated Clerk of the

Synod. He has acknowledged receipt of the same. At the meeting of the Presbytery of New York, November 4th, in connection with the motion to dismiss the case, a motion to discharge the committee was ruled out of order by the moderator on the ground that the committee was a committee of prosecution, an original party, and independent of Presbytery, representing the Presbyterian Church in the United States of America. The Presbytery sustained the moderator by a vote of 64 to 57. The leaders of the minority prepared a Complaint to Synod which has been signed by 67 members present and voting at the time, showing that the moderator was sustained in his ruling by a mistake on the part of at least ten voters, and that the Presbytery was really against his decision by a majority of at least 13 voters.

It is claimed that the Complaint signed by more than one-third of the Presbytery acts as a stay on the decision of the Presbytery, and that this committee cannot act as a prosecuting committee, and as an original party and as independent of the Presbytery, unless the Synod decides that they have a right to act in these capacities.

The ground for this opinion, that the Complaint acts as a stay, is in the provision of the new Book of Discipline:

"Whenever a complaint in cases non-judicial is entered against the decision of a judicatory signed by at least one-third of the members recorded as present when the action was taken, the execution of such decision shall be stayed until the final issue of the case by the superior judicatory." (85.)

This section was introduced into our new Book of Discipline. The old Book of Discipline allowed appeals in any cases whether executive or judicial. The new Book of Discipline limits appeals to judicial decisions.

This limitation required a change in the law of Complaints so that it might cover the appeals allowed in the old Book in executive decisions. The reason for limiting appeals to judicial decisions, as given by Dr. Craven, chairman of the committee which prepared the new Book, was to prevent one or more parties from staying proceedings in cases non-judicial. But he recognized that there were cases non-judicial in which such a stay is important. This stay was accomplished by appeals under the old Book. Under the new Book, the law of complaint was enlarged so as to accomplish such a stay in decisions non-judicial under certain restrictions. The only restriction in the new Book is that the Complaint shall be signed by more than one-third of those present at the time of the decision and voting in the decision. Dr. Craven at first proposed another limitation, namely, to restrict the stay to the four things: "a licensure, an ordination, an installation, or the dissolution of a pastoral relation." (*Presbyterian Review*, iv., p. 68.)

But Dr. Humphrey showed that the stay must have a wider sweep or great injustice would often be done. He was arguing against the limitation of appeals to judicial cases as then proposed. He said:

"About three years ago one of our Western Presbyteries adopted a resolution ordering all the Ruling Elders and Deacons of a certain church to cease to act as such, and took measures for the election of other elders and deacons. The deprived elders appealed to Synod from the decision of Presbytery. The effect of the appeal being to suspend the judgment, the elders and deacons continued to discharge the duties of their office, and no new election was held. One of the elders took his seat pending his appeal, in the Presbytery and the Synod. The Assembly of 1881, on an overture

decided that he had a right to sit in the Church courts (Min. 587). On an appeal from the Presbytery to the Synod, the action of the Presbytery was reversed. The elders having continued, meanwhile, in the government of the church, everything passed off quietly. All this was done under our present system (*e. g.*, the old Book of Discipline). Now let us follow the case if the new discipline (the one proposed by Dr. Craven) had been in force. The deprived elders could not have appealed, because their case was not judicial, it was simply executive. They might protest and complain, but neither a protest nor complaint would suspend the judgment. They would have been compelled to cease acting as Ruling Elders, and a new bench of elders would have been chosen under the orders of the Presbytery. But the Synod reversed and set aside the decision of the Presbytery and restored to the elders their clear title to the office. Now, under the Revision (the one proposed by Dr. Craven) can any one describe (*risum tenens*) the predicament of the newly-elected elders? And what would have become of a church compelled to pass from an old to a new administration and back again from the new to the old, all within less than a year?" (*Presby. Review*, iv., 328–329.)

In view of these objections of Dr. Humphrey and other similar ones by eminent ecclesiastical lawyers, the law of the stay of complaints, as proposed by the committee and finally adopted, was enlarged so as to cover all cases "non-judicial." The only limitation is that more than one-third of the voters should sign it.

It is evident that a vote of the Presbytery of New York sustaining a ruling of the moderator in an interpretation of our Book of Discipline is a non-judicial decision. The defendant had no right of appeal from

it, though this decision did him great wrong. He could only unite with other members of the Presbytery in the Complaint to the Synod of New York. He could secure a stay to this injurious action only by gaining more than one-third of the voters as signers to the Complaint. The defendant suffered a grievance by this decision. According to the old Book of Discipline, the prosecution being a committee of Presbytery could not appeal against the decision of Presbytery in dismissing the case. They could only complain to the Synod with other private members of the Presbytery and so seek redress. The prosecution claim the right of appeal under the new Book of Discipline. This right of appeal the defendant and those who unite with him in the Complaint, constituting the majority of the Presbytery, deny to the prosecutors. Great injustice is done the defendant by this so-called prosecuting committee keeping open the case against him after his Presbytery has dismissed it. This committee published their Appeal in the so-called religious press and advocated it before the Presbyterian Church and the general public several months before any judicatory could meet to decide whether they had any further right to act as a committee of prosecution. They have assumed that the decision would be in their favor and they have acted as if the decision in their favor had already been made. These unjust proceedings, so injurious to the defendant, have been carried on by a committee claiming to represent the Presbyterian Church in the United States of America. They have agitated the Church and the religious community against the defendant as if he were guilty of heresy; notwithstanding his Presbytery had dismissed the case against him. If these prosecutors have acted without authority, but on their own responsibility, the defendant could seek

redress from any resulting injury before the civil courts of his country. But the prosecutors claim authority from the Presbyterian Church in the United States of America, and it has been necessary for the defendant, out of respect to the judicatories of his Church, to suffer this wrong in patience until he could gain redress from the Synod of New York. No precedent for this claim of the Prosecutors or such action as they have taken under such a claim can be found in the history of Presbyterian jurisprudence. If this committee have such a right, it is a new thing in Presbyterian law. They can gain it only by an official interpretation of our new Book of Discipline to that effect by the superior judicatories. Respect for the superior judicatories ought to have influenced them to wait for the decision of these most important questions.

The defendant and his co-complainants sought the only redress open to them. They endeavored to stay this committee by their complaint to the Synod, signed by a majority of the voters in the Presbytery. According to the law of complaints, they have a right to stay this committee by their Complaint. The Complaint, complying with the law of complaints, does so stay them. They have wronged the defendant already by their premature action in not waiting for the Synod's decision. They wrong him still more by presenting their Appeal to your venerable body. The General Assembly would assume the responsibility for all their wrong-doing if you could entertain their Appeal.

The General Assembly cannot entertain this Appeal without violating the law of complaints under the new Book of Discipline. The Synod must first decide that the prosecutors are appellants having the right as a committee of Presbytery to appeal against the decision of

the Presbytery which appointed them, before they can appeal to either court, the superior court of the Synod, or the supreme court of the General Assembly.

It ought to be clear to every one that the interpretation of our Book of Discipline as to these three points, whether this committee is a prosecuting committee, whether they are an original party, and whether they can act independently of the Presbytery which created them; is of more importance to the Presbyterian Church than any decision in the case of Dr. Briggs. It was exceedingly unfortunate that these questions were first decided in the Presbytery of New York without debate by a small majority voting to sustain the decision of the moderator, this majority having been secured by a mistake, as subsequent events have shown. It would be still more unfortunate if these questions should be taken out of the hand of the Synod of New York by this General Assembly without giving the Synod an opportunity of considering them and determining them. It would be a most injurious precedent if the Assembly should now decide them by indirection without debate; by simply adopting the majority report, involving as it does the determination of these questions by a majority of a judicial committee. Such proceeding could only be disastrous to the constitution and the legal practice of our Church. It was not necessary to complicate action against the defendant, by raising these difficult and delicate questions of law. This committee would have been discharged if it had not been for the unfortunate mistake of ten or more voters as to the real question before the house, and then the prosecutors would have been entirely free to come together as individual prosecutors, prepare new charges with all the light thrown upon the case by the previous discussion, present them to the Presbytery,

and press them for decision before the Presbytery. No one questioned their right to take such a course. That was the course they ought to have taken in justice to themselves and to the accused. Dr. Briggs was prepared to meet them before the bar of the Presbytery. They ought to have been ready with their case after working so many months upon it. They might have had a trial, if they had tabled legal charges. They might have secured a righteous verdict if they had a real case. A final judgment ought to have been given early in the past winter, if they had done their part of the work. The defendant firmly believes that they have no case; that they cannot propose any charges and specifications that will be sufficient in form and legal effect; that they cannot prove him guilty of any violation of his ordination vows. He is sure of his innocence and is convinced that any and every attempt by any committee to prepare charges will only serve to make this evident to all unprejudiced minds. If the committee believed that the defendant was wrong, and that his Presbytery was wrong in their decision, they ought to have taken pains to convince the Presbytery before they appealed to the superior courts. But this committee preferred to agitate the whole Presbyterian Church by publishing their Appeal with arguments in advocacy of it. They preferred to raise a number of difficult questions of law, in order that they might stand before the public in the august position of representing the Presbyterian Church in the United States of America.

IX. *There is pending before the Synod of New York a Complaint against an interlocutory decision of the Presbytery. Until this is sustained or reversed, the judgment of the Presbytery in dismissing the case against Dr. Briggs cannot be a final judgment and therefore cannot be appealed from.*

The Complaint to Synod signed by Dr. Brown and others, is against an interlocutory decision of the Presbytery respecting the status of the committee who appear before you as appellants.

Even assuming that the judgment of dismissal by the Presbytery is a "final judgment" in so far as it is a finality in favor of the defendant and an end of the case, saving only the right of appeal (if the prosecutors are in a condition to appeal), yet it is not, under the circumstances in this case, a final judgment, for the reason that intermediate or interlocutory proceedings are pending before the Synod which involve the right of the prosecutors to act.

If no complaint had been made to the Synod raising the question of the authority of the committee and the power of the Presbytery over the committee, and if the defendant had rested on the motion to dismiss and the action taken thereon, it may be that he could not object that the judgment was not final, because that judgment necessarily ended the case and no further proceeding could be had in it except by way of appeal. New charges and specifications could have been made, but this case would have been at an end. It might be regarded as a final decision from this point of view, although the Book of Discipline seems to be against this opinion. Is the General Assembly prepared without debate to determine this important question by indirection?

The prosecutors, however, are met in their present Appeal, by the Complaint to the Synod taken in precise accordance with the directions of the Book of Discipline (83–86), and constituting a proceeding to secure a review of the questions raised by it in the next superior judicatory. This operates as a stay of proceedings (85), and until this interlocutory question is disposed of, the judgment of the Presbytery is not "final" within the meaning of the Book of Discipline; and if it be not final there is no right of appeal. The Book of Discipline permits appeals only "from the final judgment of the lower judicatory" (94).

MR. MODERATOR, MINISTERS AND ELDERS:

I have limited my argument to the one simple point that the appellants, if they are appellants, which we do not concede, and if they have a right to appeal under any circumstances, which is open to grave doubt—that in any case they ought to go to the Synod of New York. The reasons they present why you should entertain their Appeal are invalid. You could not admit them without prejudging the cause of the defendant, usurping authority which belongs to the lower court, and acting in a hasty, illegal, and revolutionary manner.

Objections have been presented against the entertainment of this Appeal which seem to be insuperable. The law of appeals does not justify the passing over the Synod in the interest of the appellants. The precedents of appeals before the General Assembly are all against this Appeal. To entertain it would be to deprive the defendant of his right under the constitution; it would wrong more than one hundred ministers and elders of the Presbytery of New York, by damaging or destroying their right of complaint; it would override the Synod

of New York, the most competent and the only proper judicatory to determine the case; it would put that great Synod in the awkward dilemma either of disregarding the rights of complainants representing the majority of the Presbytery of New York, or of disregarding the decision of the Assembly, and so involving a conflict of jurisdiction; it would be against a precedent of the General Assembly which dismissed a case because notice was given to Presbytery of appeal to Synod and only subsequently of appeal to General Assembly; it would prevent the consolidation of the Appeal and the Complaint.

You cannot entertain this Appeal, finally, because this committee is stayed from appealing by a Complaint pending before the Synod of New York signed by a majority of those present and voting in the Presbytery of New York, and because until this interlocutory decision is reversed and determined by the Synod, there is no final judgment in the case from which an appeal can be taken.

I submit this argument to your venerable body with the request that you will do justice to the appellee, that you will recognize the right of his co-presbyters, that you will credit the Presbytery of New York, and that you will trust the Synod of New York, all which you can do only by dismissing this Appeal and referring the appellants to the Synod of New York, where they must appear in any case to maintain their own Complaint before that judicatory and to resist the Complaint of the majority of the Presbytery of New York which must be considered and decided by the Synod of New York, at their next meeting.

C. A. Briggs.

VII.

THE ENTERTAINMENT OF THE APPEAL.

The following is an extract from the *Oregonian* which purports to be from an official stenographical report:

[Mr. McCook replied on behalf of the prosecution arguing in favor of entertaining the Appeal. He was interrupted by the Moderator, who called his attention to the fact that his time had expired.]

"The MODERATOR—Your time is up, sir, by the order of the Assembly.

A MEMBER—I move that ten minutes' more time be granted Colonel McCook.

Colonel McCOOK—No, sir; no, sir. I do not wish it.

Dr. R. M. PATTERSON—Mr. Moderator, I want——

The MODERATOR (interposing)—One moment. Let me make a statement how the matter now lays in the mind of the Moderator. We have reached the point in these proceedings, as stated on page 66, where the parties have been heard. The clause reads then thus: 'The judicatory may then determine, after hearing the parties, whether the appeal shall be entertained.' I do not propose to assume the responsibility of deciding whether any members of the house shall be heard at this time. I will leave that question to the Assembly. If I was on the floor of the house, or if I was called upon for a decision, which I am not willing to make, it would be that this part of the case terminates here, and that we are now ready to vote as to whether the Appeal shall be entertained.

Rev. Dr. R. M. PATTERSON—Then, to raise the question whether we have the right to speak or not, I propose to discuss the question.

The MODERATOR—As to what?

Dr. PATTERSON—As to whether we should entertain the Appeal. If any member of the house thinks the members of this court have no right to speak, they can raise a point of order on me.

Dr. DAVID R. FRAZER—I make the point of order now, sir. (Laughter.)

Dr. W. A. BARTLETT—I move that the debate stop here, and that we proceed to the consideration of the Appeal.

Dr. FRAZER—That is what I was getting at by my point of order.

JOSHUA WILLIAMS—I move as a substitute that the roll be called, and that those who desire can briefly state their reasons for their vote.

Dr. FRAZER—I second Dr. Bartlett's motion.

Dr. HOLMES—I desire to ask the Moderator a question. Is the point now before us whether we shall debate, or whether we shall entertain the Appeal?

The MODERATOR—The question before us simply is whether we shall proceed to take the vote without further discussion.

Dr. HOLMES—If we decide to entertain this Appeal, are we then compelled to proceed to the trial of this case? As I read the book, it says that after the parties have been heard the question shall be taken whether the Appeal shall be entertained, and, if it be entertained, then the Assembly shall proceed to read the records and conduct the case. Now, if we vote to entertain this Appeal, there is no option—we are compelled to try the case.

The MODERATOR—I will answer that question. It is the opinion of the Moderator——

Dr. PATTERSON—Moderator. If the question before the house is whether we shall take the vote without further discussion I presume I shall have a right to submit some remarks upon that motion, as other brethren have.

The MODERATOR—Yes, sir. Dr. Holmes asked me a question, which I am going to try to answer first. The view of the Moderator is clearly this: If the house votes to entertain the Appeal, then the Assembly must proceed, not to a trial of the case upon its merits, but simply to a trial of the case as to the sustaining of the specifications or rejecting them. Then, should they be sustained, the specifications of error alleged by the prosecution, it will then be in the province of the Assembly either to go on with the trial upon its merits, or to refer the whole case back to the Presbytery of New York. So the vote to entertain carries with it simply a determination on the part of the house, according to the book, that they will consider the question of error that has been brought before them by the committee of prosecution.

Dr. HOLMES—Is the record to be read? (Cries of 'Question, question.')

The MODERATOR—One moment. The record in the case from beginning to end ought to be read, except what may be omitted by consent. If the parties will consent to waive the reading of those records it will save a great deal of time.

Dr. FRAZER—In what form is the question to be proposed—what are we discussing?

The MODERATOR—The question before the house is that we now proceed without further discussion, to take the vote on entertaining the Appeal.

Dr. PATTERSON—On that, Mr. Moderator, I have the floor.

Dr. FRAZER—But, excuse me; have we not the minority report before us, offered as an amendment?

The MODERATOR—No, sir. Now, Dr. Patterson wishes to discuss the question of taking the vote without discussion. (Cries of No, no.)

Dr. H. D. DUNCAN—I rise to a point of order. Dr. Patterson cannot discuss that question. The Chair has already ruled on that.

Dr. BARTLETT—Mr. Moderator, I move the previous question.

The MODERATOR—I understood Dr. Frazer as withdrawing his point of order when he seconded Dr. Bartlett's motion to proceed to take a vote on the entertaining of the Appeal.

Dr. BARTLETT—Mr. Moderator, I think the previous question should be put on my motion.

The MODERATOR—Dr. Patterson has the floor.

Dr. LAURIE—I rise to a point of order. A motion was made that this vote be taken without discussion, and the Chair has not yet put that motion.

The MODERATOR—The Chair has not put it, but members may discuss, and that is what Dr. Patterson wants to discuss.

Dr. PATTERSON—I understood that that opinion prevailed somewhat extensively among the members this morning, and I am willing to have it clearly settled, so far as I am concerned, before any of us do proceed to discuss the question. As I understand it, there are three stages in this case.

Dr. FRAZER—I rise to a point of order. Dr. Bartlett's motion calling for the previous question does not admit of debate.

The MODERATOR—But it has not been seconded, sir.

A MEMBER—I second it.

Dr. FRAZER—It is a summary motion and does not admit of discussion, and must be put to the house.

The MODERATOR—I cannot see it in that light. The previous question cannot be called while a member has the floor, and Dr. Patterson had the floor when the previous question was moved. I will recognize Dr. Bartlett as soon as Dr. Patterson sits down. (Laughter.)

Dr. PATTERSON—Brethren, we will gain time if you will let me proceed without interruption. (Renewed laughter.) The Assembly has already decided yesterday that the appeal is in order. The question now before us is whether we shall entertain that order, because the appeal may be in order, and yet the Assembly have the right to dismiss it without further consideration, if it chooses. The language of the book is: 'The judgment, the notice of appeal, the appeal, and the specifications of the errors alleged, shall be read.' That has been done. 'The judicatory may then determine, after hearing the parties, whether the appeal shall be entertained.' The parties have been heard. Now the Assembly may determine whether it will entertain the case.

Dr. FRAZER—I rise to a point of order. The brother is discussing something besides the question whether or not we shall proceed to take this vote without discussion.

The MODERATOR—Dr. Patterson will confine himself to the question whether the vote on the Appeal shall be taken without debate.

Dr. PATTERSON—It hangs on the use of the word 'determine.' Several brethren had the idea that that word meant that we must at once proceed to vote, without any counsel or deliberation. Does the word 'de-

termine' mean that? Happily in our standard there is another place where it is shown not to have that meaning. Turn to page 459 of the Form of Government, and you will see that I am right. In the commission which is given to all of us, it is stated that we are sent to consult, vote, and determine on all things that may come before this body, according to the principle and constitution of this Church and the Word of God. 'Consult' and 'vote' comes before 'determine,' and the determination involves the right of consulting and the right of voting. I put a case to you: Is there any civil court composed of a number of members that would entertain the idea that after the parties before it had argued a certain question they must at once record their votes without having an opportunity to deliver it together, to consult?

Dr. SPRAGUE—I rise to a point of order. It has not been ruled that we must vote. It is a motion that we proceed to vote, and that motion Dr. Patterson is not discussing. (Cries of Question! Question!)

The MODERATOR—I will say that the question is not as to the right which Dr. Patterson seems to be discussing. It is as to the expediency.

Dr. PATTERSON—Well, going to the question of expediency, I contend that on such a serious question as this, after it has been argued by the parties, this Assembly ought, within a reasonable limit, to allow discussion among its own members as to the principles that are involved—the more so because the decision may end the case here.

A MEMBER—I call for the general rules governing judicatories—rule 18. I would like to have that read.

Dr. BARTLETT—Mr. Moderator, I moved the previous question, and I now renew that motion.

A MEMBER—I second it.

The MODERATOR—The question before the house is: Shall the call for the previous question be sustained?

Carried.

The question now is upon the resolution offered by Dr. Bartlett, which has been ordered, and on which there is no debate, namely:

Resolved, That the vote on entertaining the Appeal be now taken without debate.

Carried.

Mr. BLACK—I wish to make an inquiry of the Moderator, that I may intelligently vote. I do not wish to discuss the question at all. Some of us on constitutional grounds may be willing to dismiss this Appeal, and yet we may be willing to have it tried; and I wish to know if I am right in entertaining this belief, that if we decline to entertain the Appeal that it ends the case in the Presbytery?

The MODERATOR—It ends the case.

A MEMBER—Will the Moderator state the way this matter stands before us?

Judge STREVELL—The report of the minority is now before us.

The MODERATOR—Yes, sir. We have adopted that part of the majority report which states that the case is in order, and after the adoption of that motion we have gone on up to the point where we are about to take the vote upon entertaining the Appeal. Now, just at that point the minority and the rest of the majority report directly clash. The motion before the house is the substitution of the minority report for that part of the majority report. So those who desire that the Appeal should not be entertained will vote in favor of the minority report as a substitute for the majority report.

Those who desire that the Appeal should be entertained will vote down the minority report, and then adopt that part of the majority report which recognizes the entertainment of the Appeal.

Judge STREVELL—If the Chair will allow me one moment, the Assembly will observe that the minority report is that the case be not dismissed, as the Moderator observed, but that it be returned to the Synod of New York.

The MODERATOR—That it be not entertained here.

Judge STREVELL—Yes, sir; and returned to the Synod of New York.

The MODERATOR—But this case is not before the Synod of New York.

Judge STREVELL—But it is entirely proper for this Assembly, sitting as a court, to refer this case for trial anywhere where any other portion of the case is pending, which is shown to be in the Synod of New York. That is the report of the minority.

The MODERATOR—Is it competent for this court to refer it without having entertained it? No, sir; I decide not.

Dr. FRAZER—I understood the Moderator to say that what we were to vote upon is the minority report. May I ask that that be read?

The MODERATOR—Yes, sir; I was going to ask the clerk to do that simply because that brings up the question of entertaining or not.

The stated clerk then read the minority report.

'The undersigned, a minority of the judicial committee, would respectfully submit the following report:

'WHEREAS, The Book of Discipline requires that appeals are generally to be taken to the judicatory immediately superior to that appealed from; and

'WHEREAS, There are no sufficient reasons for making the Appeal against the action of the Presbytery in New York in dismissing this case against Dr. Briggs an exception to this rule;

'*Therefore*, We recommend to the General Assembly that the Appeal be not entertained; that the papers in the case be returned to the appellants, and that they be advised to bring their Appeal or complaint before the Synod of New York.'

Mr. LOVE—I would ask for a point of information there. May not this recommendation of the minority be divided in two? It is in two parts. First, as to whether it shall be sustained; secondly, as to whether it shall be sent back to the Synod of New York.

Dr. R. S. GREEN—I should like to ask for information if there is any constitutional provision whereby an appealed case can in any way, shape or manner, be now brought, or hereafter brought, except by an entirely new trial, before the Synod of New York?

The MODERATOR—Not that I know of, sir. (Calls were again made for the question.)

Dr. LAURIE—Mr. Moderator, I would like to ask a question. If the case is not entertained, what more business have we with it? How can we send it anywhere?

Dr. PATTERSON—That is debate, sir.

The MODERATOR—In my mind there is no constitutional provision by which, without a new trial, this Appeal could be sent to the Synod of New York.

Judge BONNER—That is the very point I was going to raise. I do not believe that that part of this minority report is in order. I do not believe that this Assembly has any power to make the recommendation that is there stated. If it is not entertained here, as I understand it, the case is at an end, because the time for the Appeal to the Synod of New York has passed.

The MODERATOR—That is the judgment of the Chair.

Calls were again made for the question, and several members tried to get the recognition of the Moderator.

Dr. SERVICE—I rise to the point of order that under the subterfuge of asking questions the Assembly is proceeding to discuss this question.

Dr. BARTLETT—Mr. Moderator, I move to lay this minority report on the table.

A MEMBER—I second that motion.

A MEMBER—Is it within our power to reverse that judgment of the Presbytery of New York, and send this back to the Presbytery to try the case?

The MODERATOR—In the judgment of the Moderator it is.

The MEMBER—Well, sir, that is the proper thing to do. (Laughter.)

The MODERATOR—The motion is to lay the minority report on the table, which motion is not debatable.

A MEMBER—I call for the ayes and nays on that question.

The MODERATOR—It takes a third of the house to direct the ayes and nays to be called. Those in favor of calling the ayes and nays will say aye. Lost.

Those in favor of laying the minority report upon the table will say aye. Carried.

A MEMBER—I call for a division on that vote.

The MODERATOR—Those in favor of laying the minority report on the table will rise. But before taking this vote I want to read something from the Digest. I stated that it was my judgment—and it is still my judgment, though it is only that—but here is a case in the Digest, at page 741, in which the Assembly expressed this opinion: 'Your committee are of opinion that the Presbytery erred in incorporating such an opinion in

their decision. Your committee are of opinion that the appellant has shown a sufficient reason for bringing this Appeal to the General Assembly without first going to the Synod of the Atlantic. After discussion, the Assembly directed that the case be referred to the Synod of the Atlantic, with instructions to take the proper action in the premises.' It is not stated here whether any appeal had been taken before to the Synod of Atlantic, or not.

Judge STREVELL—But they referred it to the Synod without appeal.

A MEMBER—Let us have a decision of this vote and no more argument.

The minority report was then laid upon the table by a vote 385 in the affirmative, 122 in the negative.

The MODERATOR—We are now ready for a motion to adopt the majority report.

Dr. LAURIE—I move to adopt the majority report.

Dr. MCPHERSON—It seems to me that the book requires us to vote now on the question whether the Appeal shall be entertained. The majority report involved two other questions. It seems to me that we should now vote on that single question.

The MODERATOR—That is well stated, and I agree with you. We have adopted the majority report so far as stating that this Appeal was in order. The only remaining part of the majority report which has not been adopted is, 'that in the judgment of the committee the Appeal should be entertained, and a time set for hearing the case.' This is the single question before us. The question is simply on the entertainment of the Appeal.

At this point a member demanded the ayes and nays on this question, but the Assembly disagreed with him.

A MEMBER—I rise to a point of order. A numerical

vote (one-third) is required, and how can the Moderator determine whether it has been lost or not?

The MODERATOR—I have not so determined. I will put the question. Those in favor of demanding the ayes and nays will say aye. Lost by a vote of 416 to 91. We now come to the adoption of that part of the majority report which says that the Appeal shall be entertained. Carried."

[It is manifest from this report that no debate was allowed upon the question whether the Appeal should be entertained, and that the Moderator influenced the vote by unjust decisions which he had no right to make. The Moderator had the right to determine questions of order; but he had no right to determine constitutional questions, or to give his opinion of the proper course of procedure under the constitution. And yet the Moderator (1) gave his opinion that the vote should be taken after hearing the parties, without debate. He then gave his opinions on other parts of the subject, but allowed no one else to do so.

(2). The Moderator gave his decision that if the Appeal was sustained by the General Assembly it was "in the province of the Assembly either to go on with the trial upon its merits, or refer the whole case back to the Presbytery of New York." This decision he changed at a later date, but not until after the vote had been taken to entertain the Appeal. Doubtless many voted to entertain the Appeal because they thought that the case might be tried on its merits at the General Assembly, and the Moderator, by his erroneous decision, influenced their votes.

(3). The Moderator decided that if the Assembly declined to entertain the Appeal, "it ends the case in the Presbytery." This was an erroneous decision, for the Assembly had the power to send the Appeal to the Synod for trial, and that is exactly what the minority report proposed. Mr. Black said that "some of us on constitutional grounds may be willing to dismiss this Appeal, and yet may be willing to have it tried." The Moderator's decision influenced all such to vote in favor of entertaining the Appeal.

(4). The Moderator decided that it was not competent for the General Assembly to refer the Appeal to the Synod. This gave

all the weight of his authority against the motion of the minority that the Appeal should be sent to the Synod of New York. The Moderator was obliged to change this decision when his attention was called to a precedent in the Digest of Presbyterian Law. But this recantation was made during the taking of the vote after he had decided the viva voce vote, and just before a second vote was taken on the call for a division. Thus a serious wrong was done by the Moderator to the motion offered by the minority of the Judicial Committee.

These four unjust and unconstitutional decisions of the Moderator went far to determine the vote, especially as all debate on the floor was prohibited. It is doubtful whether any Moderator ever made so many mistakes and did so much wrong in so short a time. The Moderator is a conservative man. He evidently endeavored to be fair and equitable, and to favor an intermediate policy. But his lack of knowledge of the constitution and law of the Church was very unfortunate under the circumstances. The minority vote was very much greater than one could reasonably expect in view of such decisions from the Chair.]

VIII.

ARGUMENT AGAINST SUSTAINING THE APPEAL.

Mr. Moderator, Ministers and Elders of the General Assembly of the Presbyterian Church in the United States of America:

The appellee is now called upon to resist the appeal made to your venerable body by the alleged Prosecuting Committee of the Presbytery of New York. You have decided to entertain the appeal despite my protest and reservation of rights. It is now necessary for me, before going a step further, to say that I do not consent to your decision. I do not waive my right, or the right of my co-complainants, to prosecute our complaint before the Synod of New York, in order that it may be determined there whether the appellants were appointed as a committee of Prosecution by the Presbytery of New York, whether they are an original party, and whether they can act as appellants against the decision of the Presbytery to dismiss the case. We reserve this right. The appellee does not waive his right to seek any relief that may seem to be proper against your decision to entertain the appeal. He enters upon his response to the objections of the appellants with all these reservations of right.

It is also necessary to call attention to the peculiar position in which the appellee is placed by the law of the Church. He is forced by the appellants and by the Book of Discipline to resist the appeal by legal argu-

ment and to weary you with technical objections. If he should venture on the merits of the case, Mr. Moderator, you would immediately call him to order. In such a situation the accused needs all the restraining grace that his God can give him. The appellee is compelled by the circumstances of this case to defend the action of his Presbytery—action which he did not request and which was not in his interest, but in the interest of the Presbytery of New York. His argument is, therefore, not in self-defense and vindication, but simply and alone a defense of his Presbytery and a vindication of his Presbytery. He might waive his own rights. He cannot waive the rights of the Presbytery of New York.

A.—*The History of the Appellants Corrected.*

The chief part of my task at this time is to test the six objections and the twenty-five specifications made by the appellants. But these objections and specifications are built upon a historical sketch of the proceedings of the Presbytery and are set in the light of that alleged history. History is a science whose value consists in an accurate, complete and impartial statement of facts. History ceases to be history when the facts are warped or colored or sifted with a purpose to gain a point or establish a cause. The appellee greatly desired to test this history given by the appellants, for it is of some importance for the cause which he represents that all the facts should appear exactly as they came into existence in their relations and circumstances in the historical evolution of the case, and that they should all be set in the clear and full light of the day. If the ministers and elders of this Assembly will only take the time to compare the history contained in the Appeal with the history contained in the Records—

even the printed records—they will see that the history has been sifted in the interests of the appellants and against the interests of the appellee, and that there are facts in connection with the history which do not appear in their historical order in the Records. I have made a detailed examination of this history, but I refrain from using it because it is necessary for me to spend the time allotted me upon the Objections and their Specifications. I do not know whether it will be proper for me to ask you to pass this part of my argument as read, because I would like to use it at some subsequent time when I publish this paper. I will not insist upon it, but I would like to have that privilege, though, of course, I can publish what I please and state that it was prepared to be read, but was not read.*

[(1). The appellants mention the historical fact that on the 13th day of April, 1891, the Presbytery of New York appointed a committee to consider the Inaugural Address of the Rev. Chas. A. Briggs in its relation to the Confession of Faith. But they do not mention the important historical fact, which is mentioned in the printed Records, p. 24, that the Committee was appointed in accordance with a paper presented by the Rev. Dr. Birch.

"WHEREAS, The Address of the Rev. Charles A. Briggs, D.D., a member of this Presbytery, delivered on Tuesday evening, January 20th, 1891, on the occasion of his inauguration as the 'Incumbent of the Edward Robinson Chair of Biblical Theology' in the Union Theological Seminary (which Address has since been published by said Seminary), has been very generally criticised as containing statements which are seemingly contrary to the teachings and spirit of our Confession of Faith, and

"WHEREAS, This Address has also been actually made the

* The criticism of the history of the appellants which follows was prepared but not delivered for want of sufficient time.

occasion of complaint to the General Assembly by at least four Presbyteries, therefore,

"*Resolved*, That a committee consisting of seven persons be appointed, to which the said Address shall be referred for consideration, with instructions to report at the meeting in May, what action, if any, be appropriate in relation thereto."

The Records also omit to mention what the minutes of the Presbytery certainly show, that the Rev. Dr. Shearer was acting as Moderator on that occasion, and that this Committee was appointed by him, a man who has been from the beginning one of the most zealous advocates of the prosecution. They also neglect to mention that Dr. Briggs was absent from this meeting of the Presbytery.

The minutes of the Presbytery show (1) that action was taken against Dr. Briggs in his absence. He was confined to his house by illness. He had no warning of the action to be taken. This action was therefore in contravention of the decision of the General Assembly (Digest, 1873, pp. 522, 523), "that no discussion ought to be allowed involving the character of an absent person in his absence," and (2) the minutes of the Presbytery show that Dr. Briggs had no opportunity of making any explanation to the Presbytery. These material facts the minutes show, but they are not given in the records of the case prepared by the Prosecution. They were the grounds of the Protest presented by Dr. Briggs to the Presbytery May 11th, 1891, as follows:

"Whereas the Presbytery of New York at its meeting in April last appointed a Committee to consider my Inaugural Address in its relations to the Confession of Faith, I do hereby protest against such action as unconstitutional, as a violation of the usages of the denomina-

tion and as a breach of justice and sound discipline; for the following reasons:

"1. No previous intimation was given either by the mover or any of the supporters of the motion, of their intention to take such action against me, and I had no opportunity of considering the matter and of advising with my friends how to meet the motion. This is in contravention of the usages of Presbyterians, that before any action is taken against any minister he should be consulted and warned, in order that, if possible, action may be rendered unnecessary.

"2. The Committee was appointed in my absence when detained at home by ill health, and without my knowledge and consent, and when, therefore, my friends could not determine my views of the motion. This is in contravention of the decisions of the General Assembly that 'no discussion ought to be allowed (involving the character of an absent person) in his absence.' (Digest, 1873, pp. 522, 523.) The Presbytery noting my absence, for good reasons, ought to have postponed action until the next meeting of Presbytery.

"3. I had no opportunity of making any explanation to Presbytery, such as might have made the appointment of the Committee unnecessary. It was my privilege so to do, and it was in the interest of healthful discipline that the Presbytery should first have afforded me the opportunity.

"4. The Committee was appointed in April to consider an inaugural address delivered January 20th in the chapel of the Union Theological Seminary, and soon after published, and which had been accessible to every member of Presbytery for several weeks before the meeting of the Presbytery, and which could have been read by any member of the Presbytery in an hour and con-

sidered by him. It is not the practice of judicatories of the Presbyterian Church to appoint committees to investigate such printed documents.

"5. The practice of Presbyterian discipline throughout the world is based upon the doctrine, 'Presbytery is not so far to receive the information, as to proceed to the citation of a minister, or in any way begin the process, until there be, 1, some person who under his hand give in the complaint, with some account of its probability, and undertakes to make out the libel; 2, or at least do before the Presbytery undertake to make it out under the pain of being censured as slanderers; or, 3, that the Fama Clamosa of the scandal be so great, as that the Presbytery, for their own vindication, see themselves necessitated to begin the process without any particular accuser, but the Presbytery in this case should be careful, first, to enquire into the rise, occasion, brotchers and grounds of the Fama Clamosa.'—(Stuart of Pendarris, 1802, p. 217.)

"In accordance with these ancient rules our old Book of Discipline defines that 'In order to render an offence proper for the cognizance of a judicatory on this ground, the rumor must specify some particular sin or sins; it must be general or widely spread; it must not be transient, but permanent, and rather gaining strength than declining; and it must be accompanied with strong presumption of truth. Taking up charges on this ground, of course, requires great caution, and the exercise of much Christian prudence' (III. 5).

"The new Book of Discipline when it simplifies the law of process and says: 'Process against an alleged offender shall not be commenced unless some person undertakes to sustain the charge, or unless a judicatory finds it necessary for the ends of discipline to investi-

gate the alleged offence' (II. 6), does not do away with these great principles of Presbyterian practice which have been followed by judicatories for centuries in all parts of the world.

"The committee was not appointed on the ground of common fame to investigate rumors, but to investigate a printed pamphlet, and therefore it has no legal existence. If it had been appointed on the ground of common fame the duty of the committee would have been not to investigate the pamphlet, but in the language of the old Book of Discipline they should have considered that 'a general rumor may be raised by the rashness, censoriousness or malice of one or more individuals. When this appears to have been the case, such individuals ought to be censured in proportion to the degree of criminality which appears attached to their conduct.' C. A. BRIGGS."

(2). The Appeal states the historical fact that the Committee presented a report on May 11, 1891, and that its recommendation was adopted—"that the Presbytery enter at once upon the judicial investigation of the case." But the important circumstances are omitted; that President Hastings presented the following paper to the Presbytery:

"WHEREAS, The Constitution of the Presbyterian Church declares that 'original jurisdiction in relation to ministers pertains to the Presbytery' (Book of Discipline, 18), and that 'the judicatory to which a church member or a minister belongs shall have sole jurisdiction for the trial of offences whenever or wherever committed by him' (Book of Discipline, 108); and

"WHEREAS, Condemnation without trial is contrary to all law, civil and ecclesiastical; and

"WHEREAS, The Presbytery of Chester, in session at Downingtown, Pa., April 14, 1891, adopted an Overture to the General As-

sembly, condemning the Rev. Professor Charles A. Briggs, D.D., a member of this Presbytery, as follows:

"'WHEREAS, The Directors of Union Theological Seminary in the City of New York, have established a new professorship, to be known as the Edward Robinson Professorship of Biblical Theology, and have transferred Prof. Charles A. Briggs from the chair of Hebrew and installed him as Professor of Biblical Theology; and

"'WHEREAS, It appears from the inaugural address of Dr. Briggs, and from his book entitled 'Whither,' and from various articles he has written and published, that his views in relation to the Scriptures and upon other subjects of vital importance, are, in the judgment of the Presbytery, not in accordance with the Confession of Faith, and the Catechisms of our Church; and

"'WHEREAS, The peace and purity of the Church depends upon the character of the instructions imparted to our candidates for the ministry, found in our theological seminaries;

"'Therefore, *Resolved*, That this Presbytery of Chester, convened at Downingtown, Pa., April 14, 1891, does hereby overture the General Assembly to refuse to confirm the aforesaid appointment of Prof. Briggs to the chair of Biblical Theology.'

"Therefore, in view of this overture of the Presbytery of Chester,

"*Resolved*, That the Presbytery of New York hereby overtures the General Assembly to pronounce that the Presbytery of Chester has, 1st, Violated the Constitutional rights of Prof. Briggs, in that it has given judgment that his views are not in accordance with the Confession of Faith, while he is a member of this Presbytery in good standing; and

"2dly, Has violated the Constitutional rights of the Presbytery of New York, which has sole jurisdiction over Prof. Briggs.

"*Furthermore*,

"WHEREAS, This Presbytery has learned that other Presbyteries, besides the one of which we complain, have sent up overtures to the Assembly of a similar character to that herein cited, the Presbytery of New York respectfully overtures the General Assembly to protect our rights under the Constitution."—(Records, pp. 25, 26.)

This paper was rejected by a vote of 62 to 54, show-

ing 116 voters as present in the Presbytery. There was a minority report from the Committee presented on the same date, "that no judicial proceedings be entered upon." The substitution of the minority report for the majority report was lost by a vote of 35 to 55, showing only 90 voters. This falling off of the votes has a reason which does not appear upon the Records or upon the minutes. The vote was forced by a resolution to lay a motion to adjourn on the table, in order to take the vote without debate. The Presbytery had been considering for some time whether they would take recess until evening or until the next day or for another month. During this discussion as to the time of taking recess many of those who favored the minority report had left the house for lunch, or to attend the meeting of the Directors of the Union Theological Seminary. The vote was taken hastily and as a surprise after the retirement of a considerable number of Presbytery. Accordingly, the subsequent action to "arrange and prepare the necessary proceedings appropriate in the case of Dr. Briggs" was taken by a minority of those who were recorded as present and taking part in the previous vote. I gave notice of protest and complaint to the Synod (see Records, p. 58), but subsequently withdrew this complaint, as I wrote to the Presbytery, "in order that I may not directly or indirectly be the occasion of any delay in the advance towards judicial proceedings" (p. 59).

(3). The Appeal states that "after the initiation of the prosecution by the said judicatory, the Presbytery of New York as above recited, the said Prosecuting Committee entered upon its duties." The Records up to this date show no appointment of a Prosecuting Committee, "charged with the duty of conducting the prosecution in all its stages, until the final issue be reached."

If they were a prosecuting committee, one of their number, Dr. Sample, ought not to have come to the defendant privately requesting him to appear before the committee and make statements and explanations so as to obviate the necessity of tabling charges. It was doubtless meant in kindness by Dr. Sample, but if they were a prosecuting committee, no such proposition was lawful. If they were a prosecuting committee, they ought to have limited themselves to the three items of objection presented in their report May 12, 1891, namely, (1) the "co-ordination of the fountains of divine authority, (2) the denial of the inerrancy of the original text of Holy Scripture, and (3) progressive sanctification after death"; whereas, when the committee tabled charges, they disregarded alike the form and the substance of the errors complained of in that Report, and, at their discretion, tabled two charges and eight specifications. In these they formulated new charges relating to the Higher Criticism and Predictive Prophecy, and they reduced the denial of the inerrancy of the original text of Holy Scripture to a specification under another charge. In other words, this committee acted as if they had full powers to act in accordance with their own discretion whether they should table charges or not, and what should be the charges, and what form they should assume. All such action was unlawful if it was designed that they should be a prosecuting committee to formulate charges on the basis of the Report of the investigating committee, and prosecute them in the courts of the Church.

(4). The Appeal states that on October 5, 1891,

"The said Prosecuting Committee presented a report which is hereby referred to as a part of the record of the proceedings which culminated in the decision and final judgment from which

this appeal is taken. That the said Presbytery accepted said report and adopted its recommendations, and the charges and specifications in the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D., contained in the said report, were read in the presence of the Judicatory, and were served by the moderator upon the said Rev. Charles A. Briggs, D.D., together with a citation, citing him to appear and plead to the said charges and specifications at an adjourned meeting of the said Presbytery, to be held on November fourth, A.D. 1891.

"That after said report was presented to the said Presbytery, and the charges and specifications therein contained had been read, and pending action upon said report, the Presbytery entertained a motion to arrest the judicial proceedings and to discharge the Committee from further consideration of the case, as follows:

"'WHEREAS, The Presbytery of New York, at its meeting in May last, on account of utterances contained in an inaugural address delivered January 20, 1891, appointed a Committee to formulate charges against the author of that address, Rev. Charles A. Briggs, D.D., and, whereas, since that action was taken, the accused has supplemented those utterances by responding to certain categorical questions. . . . .

"'*Therefore, Resolved*, That Presbytery, without pronouncing on the sufficiency of these later declarations to cover all the points concerning which the accused has been called in question, with hearty appreciation of the faithful labors of the Committee, deems it expedient to arrest the judicial proceedings at this point, and hereby discharges the Committee from further consideration of the case.'

"On the aforesaid motion to dismiss the case as expressed specifically in the words, 'to arrest the judicial proceedings' and 'hereby discharges the Committee from further consideration of the case,' the Presbytery, by a yea and nay vote, refused to adopt the above resolution and to dismiss the case."

But the Appeal omits from the resolution of Dr. Alexander the categorical questions put by the Directors of Union Seminary to Dr. Briggs and his answers to the

same, which were the basis of that resolution, and which are given in the Records of the case, pp. 64, 65.

"*Question I.* Do you consider the Bible, the Church, and the Reason as co-ordinate sources of authority?

"*Answer. No.*

"Or, do you believe the Scriptures of the Old and New Testaments to be the only infallible rule of faith and practice?

"*Answer. Yes.*

"*Question II.* When you use the word 'reason,' do you include the conscience and the religious feeling?

"*Answer. Yes.*

"*Question III.* Would you accept the following as a satisfactory definition of Inspiration: Inspiration is such a divine direction as to secure an infallible record of God's revelation in respect to both fact and doctrine?

"*Answer. Yes.*

"*Question IV.* Do you believe the Bible to be inerrant in all matters concerning faith and practice and in everything in which it is a revelation from God, or a vehicle of Divine truth, and that there are no errors that disturb its infallibility in these matters, or in its records of the historic events and institutions with which they are inseparably connected?

"*Answer. Yes.*

"*Question V.* Do you believe that the miracles recorded in Scripture are due to an extraordinary exercise of divine energy, either directly or mediately through holy men?

"*Answer. Yes.*

"*Question VI.* Do you hold what is commonly known as the doctrine of a future probation? Do you believe in purgatory?

"*Answer. No.*

"*Question VII.* Do you believe that the issues of this life are final, and that a man who dies impenitent will have no further opportunity of salvation?

"*Answer. Yes.*

"*Question VIII.* Is your theory of progressive sanctification such that it will permit you to say that you believe that when a man dies in the faith, he enters the middle state regenerated, justified, and sinless?

"*Answer. Yes.* (Signed), C. A. BRIGGS.

"I hereby certify that the foregoing is a true copy from the Minutes of the Board of Directors of Union Theological Seminary of the City of New York.

"E. M. KINGSLEY, *Recorder*.

"NEW YORK, Oct. 5, 1891."

The Appeal also neglects to state some very important circumstances in connection with that resolution of Dr. Alexander, which are given partly in the records of the case (p. 60), and partly in a stenographic report of the proceedings of the Presbytery of that date, now in the possession of the appellee, as follows:

Dr. George Alexander offered his motion, and it was seconded by Dr. Charles L. Thompson, prior to the presentation of the report of the Committee. Out of courtesy to the Committee he asked and obtained leave to withdraw his motion, in order to hear the report of the Committee, with the understanding that he would then renew his motion. (Records, p. 60.)

The motion was renewed by Dr. Alexander after the hearing of the report, and was defeated by 64 to 60. The stenographic report shows in the discussion of this motion several important facts. (1) The Committee then for the first claimed to be a Committee of Prosecution; that claim was denied by Dr. Charles L. Thompson, Henry J. Van Dyke, and others. It was also virtually denied by the Moderator and the Presbytery when they entertained the motion of Dr. Alexander to arrest the judicial proceedings and discharge the Committee from further consideration of the case. (Records, p. 65.)

The Committee argued that it was illegal to entertain the motion of Dr. Alexander on the ground that they were a Prosecuting Committee. Mr. McCook said on that occasion:

"Under the Book of Discipline—if we respect that law of the Presbyterian Church—we have to stop at this stage, and wait

until the accused has made his answer or plead, as provided in that section; and then, if this judicatory sees fit in its wisdom and judgment to dismiss the proceedings, it has the power, and that would be the appropriate and proper time to do it. But it would be eminently unfit that such action should be taken before."

(5). The Appeal states:

"That on said November fourth, A.D. 1891, the said Dr. Briggs presented a paper purporting to be objections to the sufficiency of the said charges and specifications in form and legal effect, and that said paper was largely an answer to said charges or an argument upon the merits of the case, and was denominated by the said Dr. Briggs himself, a 'Response to the Charges and Specifications submitted to the Presbytery of New York, by Prof. Charles Augustus Briggs, D.D.,' and that the said Presbytery thereupon permitted members of the said Presbytery to discuss the merits of the main question on behalf of the accused before and without permitting the Prosecuting Committee to be heard on the merits of the case."

This history is not in accord with the minutes of the Presbytery, which simply state that "Dr. Briggs being called upon to make return to the citation, then proceeded to file objections against the sufficiency of the charges and specifications in form and legal effect." (Records, p. 252.)

(6). Finally the appellants neglect to state the important fact recorded in the minutes of Presbytery—that after the announcement of the vote the chairman of the Committee of Prosecution gave notice of an appeal to *Synod* from the decision of Presbytery. No notice of appeal to General Assembly was given. (Records, p. 255.)

The Appeal was against the decision of the Presbytery, and not against anything in the paper of Dr. Briggs, or the proceedings of the Presbytery prior to the decision.

We have gone over the history of the case as given in

the Appeal, and have shown that the history has been warped and colored and sifted in the interest of the appellants, and that it cannot be trusted as a true history of the case.]

B.—*The Grounds of Appeal Tested.*

The appellants present to your venerable body six grounds of appeal, with twenty-five specifications. These seem to constitute a formidable array, but when we scan them closely we find that the same specifications do service under a number of different grounds, and they are not so invincible after all. It is as in a pantomime in whose successive acts and scenes a large number of different characters are assumed by a few persons acting various parts; they merely change their masks and costumes. That is all. These grounds of appeal and their specifications on examination shrink into a much smaller number, and seem to the appellee to be of no substantial importance. I shall not weary you by going through the grounds and specifications in the order of the appeal. I shall ask you rather to follow me in a critical analysis of them. The grounds of the appeal allowed by the Book of Discipline are: Irregularity in the proceedings of the inferior judicatory; Refusal to entertain an Appeal or Complaint; Refusal of reasonable indulgence to a party on trial; Receiving improper, or declining to receive important, testimony; Hastening to a decision before the testimony is fully taken; Manifestation of prejudice in the conduct of the case; and mistake or injustice in the decision. All of these grounds of appeal are urged by the appellants with the exception of two—(1), refusal to entertain an appeal or complaint; and (2), refusal of reasonable indulgence to a party on trial. The appellants do not urge these two grounds because they could not

possibly do so for the simple reason that the question of entertaining an appeal or complaint could not be raised before the court of original jurisdiction; and because the appellants were not the party and could not be the party on trial. The appellants therefore claim that in every possible instance the Presbytery gave them a ground of appeal. There are six of these grounds. (1) Irregularity in the proceedings. (2) Receiving improper testimony. (3) Declining to receive important testimony. (4) Hastening to a decision before the testimony was fully taken. (5) Manifestation of prejudice in the conduct of the case. (6) Mistake or injustice in the decision. But you will see at once, if I mistake not, that three of these grounds have no validity at that stage in the process when action was taken by the Presbytery of New York to dismiss the case. The Book of Discipline, sections 22 and 23, prescribes the order of procedure.

"At the meeting at which the citations are returnable the accused shall appear, or, if unable to be present, may appear by counsel. He may file objections to the regularity of the organization, or to the jurisdiction of the judicatory, or to the sufficiency of the charges and specifications in form or in legal effect, or any other substantial objection affecting the order or regularity of the proceeding, on which objections the parties shall be heard. The judicatory upon the filing of such objections shall, or on its own motion may, determine all such preliminary objections, and may dismiss the case, or permit, in the furtherance of justice, amendments to the specifications or charges not changing the general nature of the same. If the proceedings be found in order, and the charges and specifications be considered sufficient to put the accused on his defence, he shall plead 'guilty' or 'not guilty' to the same, which shall be entered on the record. If the plea be 'guilty,' the judicatory shall proceed to judgment; but if the plea be 'not guilty,' or if the accused decline to answer, a plea of 'not guilty' shall be entered of record, and the trial proceed.

"23. The witnesses shall be examined, and, if desired, cross-examined, and any other competent evidence introduced, at a meeting of which the accused shall be properly notified; after which new witnesses and other evidence, in rebuttal only, may be introduced by either party. But evidence, discovered during the progress of the trial, may be admitted in behalf of either party, under such regulations, as to notice of the names of witnesses and the nature of the proof, as the judicatory shall deem reasonable and proper; and then the parties themselves shall be heard. The judicatory shall then go into private session—the parties, their counsel, and all other persons not members of the body being excluded; when, after careful deliberation, the judicatory shall proceed to vote on each specification and on each charge separately, and judgment shall be entered accordingly."

This is the entire course of procedure prescribed by the Book of Discipline.

The Presbytery of New York advanced thus far in its procedure. The defendant filed objections to the sufficiency of the charges and specifications in form and in legal effect. The Presbytery determined these preliminary objections, and dismissed the case. The Presbytery did not put the accused on his defense. He did not plead guilty, or not guilty, or refuse to answer. The judicatory did not hear evidence and receive testimony. It did not vote on the charges and specifications. It did not enter judgment. All of these things follow in the order of our Book of Discipline after the matter which is at the discretion of the Presbytery, whether it shall dismiss the case. Therefore, the objections as to declining to receive important testimony, and hastening to a decision before the testimony was fully taken, have no place in connection with the decision dismissing the case, because the time has not yet come in the order of procedure when it was proper for the Presbytery to receive testimony. The objection that the Presbytery received

improper testimony does not hold, because it was not the time for the Presbytery to receive any testimony, proper or improper, and the Presbytery did not in fact receive any such testimony. These three grounds of appeal, with all their numerous specifications, fall to pieces as altogether null and void. If the appellants can show, as regards the other three objections, that there was irregularity in the proceedings, that there was manifestation of prejudice in the conduct of the case, and that there was mistake or injustice in the decision, then these objections are valid. But we shall show your venerable body that none of these things are true, at least so far as the appellants are concerned.

It seems best for the appellee to test these Grounds in a different way from that desired by the appellants. Inasmuch as the specifications cover the whole history of the case from the filing of objections by the defend ant until the decision of the Presbytery dismissing the case, it seems best to follow the historical order in testing them. This I shall endeavor to make more interesting to you than by the more technical way. We shall divide the proceedings of the Presbytery of New York, of November 4, 1891, into these three parts. (1) Hearing the Response of the defendant to the Charges and Specifications as to their form and legal effect. (2) The procedure in the Presbytery during the debate prior to the decision. (3) The decision to dismiss the case.

I. HEARING THE RESPONSE.

Let us consider the action of the Presbytery in hearing the Response of the defendant to the charges and specifications as to their form and legal effect. Under this head there are four specifications only of the twenty-five.

(1). *The Title of the Response.*

(1). Ground I., Specification 1.—The ground of appeal here is that there was "irregularity in the proceedings of said Presbytery of New York," "in this that the said Presbytery of New York permitted the accused to read, in the hearing of the said judicatory, a paper which purported to be objections to the sufficiency of the charges and specifications in form and legal effect, but which was in fact, and is, as denominated by the said accused, a Response to the Charges and Specifications, which paper consisted to a great extent of statements of fact or arguments on the merits of the case." The objection that the defendant made statements of fact and arguments on the merits of the case we shall consider further on. We propose to refute at this point the argument based upon the *title* of the paper of the defendant. It is quite true that the paper as printed has the title, "Response to the Charges and Specifications." The accused was cited October 6, 1891, by the Presbytery, "to plead or make answer to said charges and specifications." The Book of Discipline gives the accused the right in his answer or response—as I take these to be synonyms,—"to file objections to the regularity of the organization or to the jurisdiction of the judicatory, or to the sufficiency of the charges and specifications in form or in legal effect, or any other substantial objection affecting the order or regularity of the proceedings"; and, if he wishes to waive all these rights of preliminary objection, and plead guilty, or not guilty, or decline to answer, if he plead not guilty, to respond to the substance of the charges and specifications. The accused limited his Response to filing objections to the sufficiency of the charges and specifications in form or in

legal effect. This is expressly stated in his paper. At the beginning it says: "I have no objection to the regularity of the organization or to the jurisdiction of the Presbytery of New York, but it is necessary both in my own interest and in the interest of the order and regularity of the judicial proceedings in the Presbytery to file objections to the sufficiency of the charges and specifications in form and legal effect." It is also distinctly stated at the close of the paper in the following words: "These objections to the sufficiency of the charges and specifications placed in my hands by order of the Presbytery of New York as to their form and legal effect are hereby respectfully submitted to the Presbytery for their judgment." The published title of that paper might have been more specific, if it had read, "Response to the charges and specifications showing their insufficiency in form and in legal effect." But it was not necessary to make such an explicit title when the whole paper from beginning to end showed that it was a response to the *form* of the charges, and not a response to the *substance* of the charges. Furthermore, any objection to the title is immaterial, because the title of the paper was not read before the Presbytery, was not a part of the paper as presented to the Presbytery, and is not recognized in the minutes of the Presbytery. It is true that the official stenographer's report copied the title of the printed paper into it, and the stenographer wrote, "Dr. Briggs then read his response to the charges and specifications." Then the Moderator, Dr. Bliss, changed it by inserting with his pen the following words: "Paper filing objections which is entitled ('Response to the Charges and Specifications.' See printed copy, pp. 158, 159)." But neither the statement of the official stenographer nor the statements of the Moderator were

examined or approved by the Presbytery of New York, and therefore form no part of the record in this case. Another stenographic report was taken by a stenographer employed by the directors of Union Theological Seminary, which gives the paper exactly as it was read without title, and this corresponds with the minutes of the Presbytery which is the only proper record in the case. The minutes read as follows: "Dr. Briggs, being called upon to make return to the citation, then proceeded to file objections against the sufficiency of the charges and specifications in form and in legal effect, as follows." The appellee appeals to the minutes of the Presbytery against the official stenographer and the Moderator.

Now, this may appear to be a small matter—and it is—but it is made a ground of objection, and we are required to meet it, even if it is a trifle.

The first specification of the first ground of appeal, therefore, as it is based on the title of the paper filing objections as to the sufficiency of the charges and specifications as to form and in legal effect, is clearly, as the record of the Presbytery shows, null and void.

(2). *The Preamble.*

Ground II., Specification 8.—The ground of appeal is, that there was "irregularity in the proceedings of the said Presbytery of New York" in hearing objections to the preamble of the charges and specifications.

Now, the facts are these. On the 5th of October, 1891, the appellants presented a report, consisting of a preamble, charges and specifications, and recommendations. (See Record of the case, page 61 and following.) The written record of the case in the hands of the Stated Clerk I acknowledge to be correct, as I did yesterday; but the printed record of the case prepared by the Com-

mittee is at fault, as I showed yesterday, in that it detaches the charges and specifications from the report, and in the place where they should appear inserts simply the words: "Here follow the charges and specifications, for which see page 70." It is no excuse to say that those charges and specifications are printed on page 70. Why were they not printed in the place where they belonged and referred to on page 70? In fact, the preamble and the charges and specifications were read together and printed together for circulation in the Presbytery and before the whole Church, and therefore the preamble went wherever the charges and specifications went. The copy served upon the defendant contained this preamble.

Now, I will acknowledge, Mr. Moderator, that a single line of ink stretches across the two pages and a quarter containing the preamble and also the cover of the pamphlet; but it needed something more than such a thin line to blot out the offensive and injurious statements of that preamble. The defendant had no other opportunity of objecting to this preamble than that afforded him at the time of filing the objection. In fact, it is a very curious circumstance that the defendant was not present when the preamble was read, owing to a change of order of procedure prior to his return to the Presbytery after its recess. (See Stenographer's Report.) The Committee had proceeded well on in their reading of the charges without inquiring whether the defendant was present. Is that legal? I am not raising the question here now. I have never raised any merely technical objections, but it is important for my case to mention it here. The defendant had the right on November 4th, not only to file "objections to the sufficiency of the charges and specifications in form and in legal effect,"

but also to file "any other substantial objections affecting the order or irregularity of the proceedings." The objection to the preamble made by the defendant you will find in his printed response. I shall not weary you in reading it.* He appeals to the honor of every fair-minded man whether it was not necessary for him under the circumstances to relieve himself at the outset from those unjust imputations which the prosecutors did not propose to try before the Presbytery, and which were framed apparently—I will not say intentionally—but apparently with the purpose of influencing the court against him if they went to trial. The Presbytery made no objection to this reference to the preamble. The Moderator did not question its order or propriety. The appellants themselves raised no objection on the floor of the Presbytery to hearing the objections made. Their objection seems to have been an afterthought. If it was ever a proper ground of appeal it ought to have been made as an exception or objection on the floor at the time.

(3). *Receiving Improper Testimony.*

Ground II., Specification 1; also Ground V., Specification 1.—I shall consolidate these two, to save your time. It is assumed in Ground II., Specification 1, that one of the grounds for the dismissal of the case, namely, "declarations made by Dr. Briggs touching his loyalty to the Holy Scriptures and the Westminster Standards, and of his disclaimers of the interpretations put upon some of his words," referred to statements and arguments touching the merits of the case contained in the "Response to the charges and specifications as to their form and legal effect" submitted by the accused. But

* See page 18.

no proof has yet been given for this assumption. It is an invalid inference of the appellants, and therefore no proper ground of appeal. This I shall endeavor to show you, although it is not my business to show it.

The history of the case shows that this ground for dismissing the case, if it be a ground, was proposed by Dr. John Hall. Dr. Hall began by referring to the former meeting, namely, October 6th (see pp. 64 and following), and the action proposed at that meeting. He desired that this clause should be inserted in the dismissal, in order, as he says, to "protect us against any imputation of favoring what the Church does not believe" and also "to do no injustice to our brother who as the accused is before us." Dr. Hall was here using phrases that had been in the minds of the Presbytery of New York since the previous meeting when Dr. Alexander's motion was defeated by the slender majority of 64 to 60. (See page 64.) Dr. Alexander's motion, including the categorical questions proposed by the directors of Union Seminary and the answers of Dr. Briggs, so carefully omitted by the appellants from their printed appeal, concludes as follows (page 65):

"Therefore, *Resolved*, That Presbytery without pronouncing on the sufficiency of these later declarations to cover all the points concerning which the accused has been called in question, with hearty appreciation of the faithful labors of the Committee, deems it expedient to arrest the judicial proceedings at this point, and hereby discharges the Committee from further consideration of the case." *

So on the same day Dr. Hall desired the Presbytery to pursue what he called a "middle" course. He pro-

* See p. 135.

posed that "in view of the *distinct disclaimers* "—notice the other word—" of pronounced errors that have been given by our friend and brother, Dr. Briggs, that in view of these *utterances and distinct disclaimers* of intentional heresy, to relieve this Committee from any further discharge of duty." Dr. Hall also desired that "the Presbytery should express its regret that in recent utterances infelicitous language had been used " by Dr. Briggs, and the hope that " our friend and brother, Dr. Briggs, would not continue this course." This last clause, which seemed to involve a censure without a trial, did not receive the support of the Presbytery.

It ought to be clear from these historical references that the term "*declarations* made by Dr. Briggs touching his loyalty to the Holy Scriptures and the Westminster Standards," was derived by Dr. Hall from the resolution of Dr. Alexander at the previous meeting, and that the term "*disclaimers of interpretations put upon some of his words* " is a reiteration of Dr. Hall's own language on October 6th.

This makes it altogether likely, to put it mildly, that Dr. Hall's proposal of this additional reason for dismissing the case at the November meeting was based upon the *statements and disclaimers* of Dr. Briggs previous to the October meeting of the Presbytery, and that they had very little, if any—no one can prove any—reference to any statements made in the Response of November 4th. I understood the chairman of the Prosecuting Committee, so called——

Dr. BIRCH (interrupting)—Mr. Moderator, I object.

Dr. BRIGGS—To what do you object?

Dr. BIRCH—I object to that imputation.

Dr. BRIGGS—I do not wish to be offensive to these brethren.

Dr. BIRCH—We do not trouble ourselves about that, but we are called "the Committee of Prosecution" authoritatively, and we are the Committee of Prosecution.

Dr. BRIGGS—I used the term "alleged," because as you will remember at the very beginning of this paper, as well as in my previous paper, I reserved the right to contest that before the Synod of New York. I do not wish, therefore, by any of my language to be held as conceding that I have consented to that; but if the General Assembly understands that I do not waive that right I am entirely willing to omit that adjective hereafter.

The MODERATOR—I think that would be best.

Dr. BRIGGS—I understood the chairman of the appellants to state this afternoon that if these statements, disclaimers and declarations had been made prior to the issue of the charges they could not except to them—that if they had been made prior to the issuing of the charges and my citation to answer them, they would not object to them.

Now, I think I have shown that they do refer to disclaimers and statements made prior to the serving of the charges, if not even prior to the preparation of the charges. The Response of the defendant consisted entirely of objections to the sufficiency of the charges and specifications as to form and legal effect. It did not enter into an argument on the merits of the case. The merits were touched upon only so far as it was necessary to touch upon them in objecting to the sufficiency of the charges and specifications as to their form and legal effect. The defendant could not avoid this altogether because the charges and specifications were so framed as to make it necessary for him to touch upon them, in so far as to make it evident that the charges and specifications were altogether irrelevant. The defendant, let me say, took

great care not to argue the case upon its merits. He took great pains to avoid that, for two very simple reasons which I think you will perceive at a glance. In the first place, he wished to avoid any possibility of friction between himself and the prosecution through the raising of technical objections to anything in his paper. He consulted several of the best legal minds in the city of New York and submitted his paper for their judgment on this matter. He was assured by them that he did not enter into the case on the merits any further than was necessary or than he had a right to do. He was prepared to meet and overcome any objections that might be raised before the bar of the Presbytery on this technical question. But in fact no objection was raised by the appellants at the time. No member of the court raised any objection. The Moderator by his silence recognized the defendant's right to file his objections without any exceptions whatever. Furthermore, Mr. McCook, on behalf of the prosecution, said (page 193 of the Record):

"Under the provision of the 22d section of the Book of Discipline the accused has presented in writing his objections to the sufficiency of the charges and specifications. In that an ingenious and interesting argument upon the merits has been introduced, and I do not think it is saying too much if I should state that substantially all the members of the Presbytery present have a very good idea of the position the accused is likely to take on the trial. I do not object to that or criticise it. I am only too glad that the accused should have the fullest possible hearing, and I am glad that he did have a hearing, and we were very careful not to interrupt the presentation of it, altho' we felt at the time that we were listening to an argument upon the merits."

This shows that the Prosecution did not interpose any objection to the Response, or anything in the Response, at the time of its delivery. It was an afterthought to

base a ground of appeal upon the action of the Presbytery in hearing any portion of the Response. It is too late, therefore, to make this a ground of appeal to the General Assembly.

The second reason, Mr. Moderator, why I did not enter into the merits of the case is this. Mr. McCook undertook to say on the floor of the Presbytery that substantially all the members of the Presbytery present "have received a very good idea of the position the accused is likely to take on the trial." This inference of Mr. McCook was gratuitous and without justification. The defendant did not propose to give Mr. McCook, or the Prosecuting Committee, or any of the members of the Presbytery, any idea whatever of the position he would take on his trial. If he had done what the appellants claim he did, he would have put his defence prematurely in their hands. This venerable body, I trust, will not think that the appellee was so unwise as to take such a course. He had his defence prepared and with him at the time; because how could he know what the action of the Presbytery would be? He was obliged to be ready to stand on his defence, and he was ready.

It cannot be shown, therefore, that the Response gave testimony in the case; still less, that it gave improper testimony. The time had not yet come for giving testimony. It was not, in fact, given. There was no manifestation of prejudice in the conduct of the case. The Presbytery did no more than it had a right to do. It had a right to hear the objections filed by the defendant as to the sufficiency of the charges in form and in legal effect. The defendant had a right to file these objections. The Presbytery was obliged to hear them, according to the constitution. They could not refuse to hear them without doing the defendant grave injustice

and wrong, and forcing him to seek redress in the superior judicatory.

We have thus far tested four specifications under three grounds of appeal, and have found them all invalid. The defendant exercised his right in filing objections to the sufficiency of the charges and specifications as to form and legal effect. The Presbytery heard them. No one in the Presbytery objected to hearing them. The appellants made no objection. The minutes of the Presbytery with reference to the Response were approved by the court. No notice was given to the Presbytery of appeal against the action in hearing the Response. The notice of appeal given to the Presbytery, as you will see on page 255 (Printed Records), was simply and alone from the *decision* of the Presbytery. The power of appeal was then exhausted. The appeal against the action of the Presbytery in hearing any portion of the Response was an afterthought. It was made too late to give it legal standing, even if it ever had any.

II. THE DEBATE IN THE PRESBYTERY.

The appellee has had little to do in defending his own Response against objections, for only four of the specifications relate to his paper, out of the twenty-five given in the Appeal. He is now called upon to defend the *procedure in the Presbytery* during the debate intervening between his Response and the Decision of the Presbytery. He must now show that the seven specifications of the Appeal at this point are groundless. These seven specifications are centered about the one question of hearing evidence in behalf of the defendant and refusing to hear evidence by the Prosecution against him. It might be sufficient at this point simply to

reaffirm what has already been said, that the Presbytery had not reached that stage in the case when evidence could be heard, and that they did not in fact hear any evidence whatever. But the appellants make so much of these seven specifications that it seems to be more respectful to them to test them.

(1). "*Not permitting the prosecution to present evidence against the accused.*"

This objection is raised under three specifications—under three grounds: Ground I., Specification 9; Ground III., Specification 1; Ground V., Specification 4. All of these objections are invalid because the Presbytery was not permitted by the Book of Discipline to allow the said Prosecuting Committee to present evidence in support of the said charges and specifications at the time when preliminary objections were to be determined, before it was in order to go to trial. The Presbytery had the discretionary right to dismiss the case before trial; and the Presbytery was obliged to dismiss it then, or not at all. If the Presbytery was to dismiss the case, it was required to dismiss it before any evidence was admitted in support of the said charges and specifications. The Presbytery had not yet decided to have the trial, and therefore the prosecution was not permitted to introduce testimony or evidence in support of said charges and specifications. The Presbytery of New York could not have done any of these things which the appellants claim they ought to have done without direct and plain violation of the requirements of the Book of Discipline. In that the Presbytery did what the law required them to do, no legal objection can be taken to their action in not hearing the evidence proffered by the prosecution.

(2). *Hearing evidence in behalf of the accused.*

Objection is raised against the alleged action of the Presbytery in hearing evidence in behalf of the accused. There are two specifications of objections under this head. Ground I., Specification 2 ; Ground II., Specification 2.

It is claimed by the appellants that there was " irregularity in the proceedings of the said Presbytery, in that the Presbytery permitted members of the said Presbytery to make pleas for the defense of the accused, which said pleas involved the merits of the case " (I., 2); and " *Receiving improper testimony* " is a ground of complaint " in this, that statements and arguments were made . . . . as to the views and the orthodoxy of the said Dr. Briggs . . . . which said statements and arguments were given by the Presbytery the force of sworn, approbated and subscribed testimony."

This class of objections is balanced against the previous class. Observe that, if it was wrong not to receive the testimony of the prosecution, it certainly was equally wrong not to receive the testimony in behalf of the accused ; if, on the other hand, it was wrong to receive testimony on behalf of the accused it was equally wrong to receive testimony against the accused by the prosecutors. In fact, it was wrong to receive any testimony whatever. If the appellants can show that the Presbytery received testimony in behalf of the accused, they have a valid ground of appeal and I will cheerfully recognize it.

But, in fact, the appellants cannot prove that the Presbytery received testimony in behalf of the defendant. They refer in their specifications to remarks of Drs. Van Dyke, Brown, McIlvaine, Hastings, Field, and

the Rev. Mr. Hillier. But these are taken out of their connection. I ask you as a court in all fairness to read them in the stenographic report in their proper places, and not as the Appeal gives them under these grounds and specifications. If the members of the court will examine either one of the stenographic reports they will see that in the few cases of exception which were taken during the proceedings to the remarks of these members of the Presbytery that the Moderator, a just and equitable man, decided that the remarks were in order, and no appeal was taken from his decision by the prosecution.

(1). An objection was taken by Dr. Schauffler to some words of Dr. McIlvaine. Dr. Schauffler asked: "Is this in order? Is it an argument of the question now before us?" The Moderator replied: "The Moderator understands that Dr. McIlvaine is showing reasons why we should dismiss the case. This is generic to that." (Printed Records, page 202.) No appeal was taken from his decision.

(2). Professor Stevenson said, with reference to Dr. McIlvaine's remarks (*l. c.*, page 207):

"Prof. STEVENSON—We are very willing to give every possible liberty, but the prosecution is decidedly unwilling to have the merits of the case entered into on every specification, when the motion is so put that if it is carried the case will be dismissed, and the prosecution will not be heard. It is unjust.

"Dr. MCILVAINE—I am simply applying the principles.

"Prof. STEVENSON—I ask for a decision.

"The MODERATOR—The Moderator decides that the brother is discussing the question of dismissal, and is giving reasons why, in view of the insufficiency of the charges, we should dismiss the case. Of course it involves, somewhat, the merits of the case as presented in the question, but the brother should confine himself distinctly to the question before us, as to the propriety and justice of now dismissing the case in view of what has been stated.

"Dr. WYLIE—May I ask a question? After we have allowed this liberty to the brother, it is understood the whole case can be gone into on either side in this discussion?

"The MODERATOR—No, sir. The question is as to the dismissal of the case, and the brother should not enter into the merits of the main question in discussing that point.

"Dr. SCHAUFFLER—We claim they are entering into details of the case. He is discussing it down to the minutest details, and if he claims that is right, we shall claim that right. If the Moderator claims that is in order, I appeal from the decision of the Moderator to the decision of the house.

"Dr. MCILVAINE—I am proving this case ought to be dismissed, because these specifications are irrelevant to the charge; and I am trying to show that the second specification is irrelevant to the charge, and I am about to give my reason for thinking so.

"A MEMBER—That was certainly right in the case; he should argue on that, and not on those charges.

"Dr. MCILVAINE—I am arguing on the light already given us.

"(The resolution was again read.) . . . .

"The MODERATOR—I would just say that one member of the Committee has just been heard, and the others will certainly be heard.

"Dr. ROBINSON—And they will each be heard as fully as Dr. McIlvaine on the merits of the case?

"The MODERATOR—Not on the merits of the case. The brother must confine himself specifically on the question."

These are the facts. No exception was taken by the Committee of Prosecution or by any other person to the remarks of Drs. Van Dyke, Brown, Hastings, Field, or the Rev. Mr. Hillier, as entering into the merits of the case. No objection was taken by the prosecution on the floor of the Presbytery that any of these members of the Presbytery were giving testimony in behalf of the accused. In the notice of appeal to the Synod of New York, given by the Chairman of the Prosecuting Committee, no mention was made of receiving improper testi-

mony. The notice of appeal was given solely against the *decision* of the Presbytery in dismissing the case (see page 255). They then exhausted their power of appeal. The appeal against the action of the Presbytery in receiving testimony was an afterthought and is now invalid, if it ever could have been valid.

(3). *Hearing the case on its merits.*

The Presbytery is charged with hearing the case on the merits. There are two specifications relating to this objection. Ground I., Specification 6; Ground VI., Specification 6. These specifications have already been considered and disproved under other heads. We recognize that the Moderator, Dr. Bliss, ruled with a firm, steady and equitable hand, and that he prevented both sides alike from going into the merits of the case, and in the Presbytery of New York we all feel very grateful to him for his decisions in this regard. We have already shown that the only one of those who voted to dismiss the case, whose remarks were objected to as entering into the merits of the case, was Dr. McIlvaine, and that he was sustained by the Moderator, and no appeal was taken from the Moderator's decision. In fact—and I wish you to notice this, members of the court—the only persons whose remarks were ruled out of order for entering into the merits of the case were two members of the Presbytery who voted in the interests of the prosecution against the decision to dismiss the case. So if there was any wrong-doing whatever, it was on their side. Dr. Shearer's remarks were objected to as entering into the merits of the case, and he was ruled out of order by the Moderator.

'A MEMBER—I object, that it is not competent to this body to discuss anything but Dr. Briggs' demurrer. We must pass on

that if it is denied, and then dismiss the case if it is not, and then we will hear the merits of the case. Brethren are making speeches on the merits of the case, when the case is not before the house.

"The MODERATOR—Your point of order is well taken. Dr. Shearer will confine himself specifically to the question of the objections presented this morning as the ground of his remarks." —(Records, p. 221.)

Dr. Shedd was also called to order for the same reason.

"Mr. W. M. MARTIN—I rise to a point of order here. He is not discussing the point which is before us now. The point is, that Dr. Briggs' paper read here to-day is only an explanation. In view of that, and not in view of the inaugural, because he has a right to his own judgment in the matter. As I understand it, he should confine himself to the point that is in that resolution.

"The MODERATOR—Dr. Shedd will confine himself to the point."—(Records, page 231.)

It is plain, therefore, from the stenographic reports, that the only ones who entered into the merits of the case were the members of the Presbytery who voted against the decision to dismiss the case. Therefore, the appellants have no ground of objection. I had a ground of objection if I wished to dwell on technicalities. It would be easy to show from the report that every statement quoted in the specifications from the speeches of the friends of the defendant are more than balanced by statements which might be quoted from those who voted in the interests of the appellants, some of the appellants themselves not excepted. But, in fact, the Moderator, Dr. Bliss, ruled with equity. He did not allow any one to enter into the merits of the case any more than was absolutely necessary to discuss the question of the sufficiency of the charges and specifications as to form and legal effect and with reference to the

motion to dismiss the case. No objection was taken by the appellants on this ground on the floor of the Presbytery. No appeal was taken by them or by any one else from the ruling of the Moderator in this regard. This objection was not included in the ground of appeal when the notice of appeal was given to the Presbytery. The debate on the Response and the motion to dismiss was in order, and no valid objection can now be taken to it. The power of appeal was exhausted when notice was given, and the grounds are invalid now, if they ever had validity.

III. THE DECISION OF THE PRESBYTERY.

The only part of the proceedings objected to in the notice of appeal given to the Presbytery was the *decision* of the Presbytery. Fourteen of the twenty-five specifications of the Appeal are against the decision. These fourteen are under several different Grounds, and are directed against the decision from several different points of view.

(1). *Preventing Amendments.*

Ground I., Specification 3; Ground V., Specification 3, are against the action of the Presbytery in *preventing amendment* from being made to the charges and specifications. But this is not a valid ground, because the Book of Discipline, Section 22, leaves it to the discretion of the Presbytery in connection with the determination of preliminary objections, whether it shall dismiss the case or permit amendments to the specifications or charges. No legal objection can be taken against the action of the Presbytery in doing what it had a right to do at its discretion in accordance with the Book of Discipline. It is true that Mr. Stevenson suggested that an

amendment might be made, but it was such a trivial and technical amendment that it made no impression upon the Presbytery; and even that amendment was not actually proposed to the court. The appellants never proposed any amendment to the court. The records show that. The defendant showed to the Presbytery that the charges and specifications were all invalid, insufficient in form and legal effect. The Book of Discipline does not give the Presbytery the right of permitting any amendments which change the general nature of the same. No amendments could be made to these charges and specifications which by any possibility could make them sufficient and relevant, without changing their nature. They were shown to be radically and essentially irrelevant and insufficient. No one in the Presbytery proposed to amend them in any way whatever. If the prosecution desired to amend them, why did they not request the privilege? Why did not some of their supporters make a motion to that effect in the court in the Presbytery? It is quite evident that the prosecution were ready to risk their charges and specifications as they were presented by them on the motion to dismiss the case. It was only after the case was dismissed and the Presbytery had adjourned that they raised this objection and made it a ground of appeal that the Presbytery did not permit amendment. This ground is therefore invalid. The Presbytery did not refuse permission to any one to make amendments, because no one proposed to make any amendments whatever.

(2). *Not determining the sufficiency of the Charges.*

Ground I., Specification 4, represents as an objection that the Presbytery did not determine the preliminary objections as to the sufficiency of the charges and speci-

fications in form and legal effect. This ground has no basis in fact. The Presbytery did determine these preliminary objections by its vote in dismissing the case. It seems to the defendant that no one could reasonably doubt that the Presbytery took such action if the motion to dismiss had remained in its earlier form.

"*Resolved*, That the Presbytery of New York, having listened to the paper of the Rev. Charles A. Briggs, D.D., in the case of the Presbyterian Church in the United States of America against him, as to the sufficiency of the charges and specifications in form and legal effect, deem it best to dismiss the case, and does so dismiss it."

In this earlier form of the motion the preliminary objections made in the paper of Dr. Briggs are the only ground of dismissal. It was not necessary first to determine the objections and then by a separate motion to dismiss the case. It is the common practice in all judicatories to combine two or more actions germane to each other in one motion. It is proper for any one to ask for a division of such combined motions; but it is not illegal to put them to vote at the same time. The Prosecution did not ask for such division. No one on the floor of the Presbytery requested it. The two combined motions were submitted together. Several such instances have already occurred in this Assembly, Mr. Moderator, and you have not ruled them out of order. When, by amendments, other grounds were added to this one ground of dismissal, these other grounds did not contravene the one original ground which stands first and is fundamental to the action. Therefore the Presbytery in fact did determine the preliminary objections, and dismissed the case in one and the same motion.

(3). *Not reconsidering the previous vote not to dismiss.*

Ground I., Specification 5, objects that action was taken in dismissing the case without the reconsideration of the vote not to dismiss at a previous meeting of the Presbytery. This ground of objection is clearly invalid. On October 5, 1891, the Presbytery declined to adopt the motion of Dr. George Alexander: "To arrest the proceedings at this point, and hereby discharges the Committee from further consideration of the case." This motion was entertained by the Moderator with the consent of the Presbytery, but it was defeated by a vote of 64 to 60. It was a motion to arrest proceedings before the charges and specifications had been served on the defendant, and before he had been cited to appear and plead to them. At that time Mr. McCook, representing the prosecution, said: "Under the Book of Discipline if we respect that law of the Presbyterian Church . . . . we have to stop at this stage and wait until the accused has made his answer or plead, as provided in that section; and then, if this judicatory sees fit in its wisdom and judgment, to dismiss the proceedings, it has the power, and that would be the appropriate and proper time to do it; but it would be eminently unfit that such action should be taken before."

In these words the prosecution admitted that it would be proper to dismiss the case after Dr. Briggs had made his answer. Now, that is the precise time when the Presbytery took such action. The appellants were therefore debarred from objecting to it at that time, and are debarred from objecting to it now.

Furthermore, it was not necessary to reconsider the former action, because the action taken in dismissing the case in November was a different action from the

one proposed and rejected in October. The prosecution did not claim at the proper time that there should be a reconsideration of the previous action. No one on the floor proposed any such reconsideration. The appellants lost their right of objection by not raising it at the proper time. That was your decision, Mr. Moderator, in a similar case yesterday morning, with reference to the reconsideration of a vote to take an excursion on Saturday. Your decision was correct. It was recognized by this General Assembly. The appellee requests that that decision be applied to this ground of objection of the appellants and that it may be thus ruled out of court.

(4). *Decision of the case on its merits.*

It is objected in Ground I., Specification 7, that the dismissal of the case involved a decision of its merits. This is based on a reason added by amendment to the fundamental reason for dismissal. This reason was proposed by Dr. John Hall: "Declarations made by Dr. Briggs touching his loyalty to the Holy Scriptures and of the Westminster Standards, and of his disclaimers of interpretations put upon some of his words." We have already shown this to be invalid under another head; that these declarations and disclaimers mentioned in this amendment proposed by Dr. John Hall were not declarations and disclaimers made in the defendant's Response to the charges and specifications as to form and legal effect, but were declarations and disclaimers referred to in the October meeting of Presbytery in the words of Dr. John Hall and Dr. George Alexander of that date. The Presbytery had the authority to make this reason an additional reason for their action in dismissing the case. The Presbytery was not shut up by

the Book of Discipline to a single reason for dismissal. The Presbytery ought to have given Dr. Briggs an opportunity of making declarations and disclaimers before them at an earlier stage in the proceedings. It was entirely proper for the Presbytery to hear such declarations and disclaimers at a later date, and to recognize disclaimers and declarations made elsewhere in a public and official manner. The recognition of such disclaimers or declarations, all of which, mark you, were made prior to the serving of the charges and specifications, cannot be regarded as a decision on the merits of the case.

(5). *Other reasons.*

It is objected in Ground II., Specification 2, that other reasons were given by voters in voting for the dismissal; and in Ground VI., Specification 2, that one prominent reason given was "desiring earnestly the peace and quiet of the Church." Is not that a good reason? It might not be a valid reason for action if it stood alone, but it does not stand alone. The peace and quiet of the Church are always appropriate as an additional reason to any action. Furthermore, it is not shown by the appellant—and we claim that it cannot be shown by any one—that a single voter voted to dismiss the case for this reason. Therefore, this objection is invalid.

(6). *The dismissal was prior to taking evidence against the accused.*

It is objected in Ground IV., Specifications 1 and 2, and in Ground VI., Specifications 5 and 7, that the decision to dismiss the case was made without the taking of evidence. This objection in four specifications is invalid because, as we have seen, it was not lawful for the

Presbytery to take any evidence whatever prior to the action to dismiss the case. No evidence was taken. No evidence could be taken, according to the constitution of the Church.

(7). *An approval of the Inaugural Address.*

It is objected in Ground VI., Specifications 1, 3, and 4, that the decision to dismiss the case may be interpreted as an approval of the utterances in the Inaugural Address, and that the clause, "without approving of the positions stated in the Inaugural Address," is in no sense a sufficient answer to or refutation of the alleged hurtful errors, and that Dr. Briggs' "statements and disclaimers are not in any sense a retraction or refutation of these hurtful errors." But Dr. Briggs was not required to retract hurtful errors until they had been proved against him after trial. The Presbytery could not with propriety answer or refute the alleged errors until it had decided them to be errors in open court; and the Presbytery sufficiently guarded itself against approval of the alleged errors by the statement, "Without approving of the positions stated in the Inaugural Address."

One final remark may be appropriate with reference to these several reasons appended by amendment to the original motion to dismiss the case. The sole original reason was the insufficiency of the charges and specifications in form and in legal effect. It is doubtful, to say the least, whether any of these additional reasons gained a single vote to dismiss the case. It cannot be shown that any of the voters voted to dismiss the case for any of these additional reasons. There is no evidence that any one who voted to dismiss the case would not have voted to dismiss it for the one original and

fundamental reason alone. These amendments were not made in the interests of the defendant. They were all made by conservative men well known to the Church. They were made with the single purpose to prevent any misunderstanding or misinterpretation of the action of the Presbytery of New York and in the interest of conservative men. On the other hand, I wish to call your attention to the fact that the stenographer's report shows that votes were lost to the motion for dismissal of the case by these amendments which were against the interests of the accused. Dr. Sutton said (see report 112): "I listened this morning to his objections, and I am satisfied according to our Book of Discipline that his objections are valid and that he deserves a dismissal of his case on the basis of that demurrer." And yet Dr. Sutton voted against the motion for dismissing the case, and he said: because of these additional reasons which he could not approve. These reasons were not in the interest of the defendant. Is not that evident? They were far from that. They were against his interests. He had a right to protest against them, for they broke the force of his demurrer. They give the principal grounds for objection on the part of the appellants. It is not the interest of the appellee to defend them. Professor William M. Paxton, of Princeton Seminary, said: "I have to vote No, simply because it strikes me that the action you propose to take is no vindication of Dr. Briggs whatever, but it will throw a cloud of suspicion over him during the rest of his life." Dr. McLean said (page 129), "I have to vote No under Dr. Briggs' statement because it implies censure without any trial." Mr. Buchanan said (page 127), "My conscience will not permit me to vote for such a resolution which is condemnatory of Brother Briggs."

Now, there is much truth in what these brethren said. It was not in the interests of Dr. Briggs that the motion was made to dismiss the case against him for these reasons. Dr. Van Dyke, the original mover of the resolution to dismiss the case, distinctly said when he offered his motion: "It is not made in the interests of Dr. Briggs, who has said on the floor of this Presbytery that he wished a trial."

Dr. Briggs acquiesced in the decision of the Presbytery, knowing perfectly well that it left him in the awkward position of not being condemned, it is true, but also without a vindication. The Presbytery of New York desired this action. The appellee simply submitted to it, preferring to suffer the injury involved rather than to be responsible in any way for the further agitation of the Church.

I was content to leave my cause in the hands of God and to appeal to the Supreme Judge who is exalted above all civil and ecclesiastical tribunals. I was content to bear under His providence all the strain that was put upon me by the unjust actions that have been taken hitherto, and I am still content to leave in His gracious hands the ultimate solution of this case, because He is the faithful Creator, He is the All-wise providence who governs all human affairs, and His reign is justice and His dominion is love.

Whenever the Presbytery of New York, which has sole original jurisdiction in this case, is ready to call me to its bar for trial, I shall advance cheerfully to meet all my adversaries. I ask but one simple thing: that the charges and specifications shall be sufficient in form and legal effect. That is the one objection that I made on the floor of the Presbytery, and that one alone. The charges must be of such a character, they must have

such a form and substance as to make a trial possible, in order that a trial may be simple, straightforward, and equitable.

This defense of the action of my Presbytery—action not desired by me and not in my interest, but desired by the Presbytery and in the interests of the Presbytery, and, as the Presbytery clearly supposed, in the interest of the peace and quiet of the Church,—I submit to the judgment of this venerable General Assembly of the Presbyterian Church in the United States of America. It is now your province, Mr. Moderator and brethren, to take such action as will be for the well-being and for the honor of our beloved Church, which has had such a noble history, which has such great present advantages, and which looks forward into such a hopeful future in the service of God and humanity. I thank you for your attention, and regret having been obliged to trouble you with such long and intricate technical arguments.

IX.

REVERSAL OF THE DISMISSAL.

The General Assembly having on the 28th day of May, 1892, duly sustained all of the specifications of error alleged and set forth in the appeal and specifications in this case:

It is now, May 30th, 1892, ordered that the judgment of the Presbytery of New York, entered November 4th, 1891, dismissing the case of the Presbyterian Church in the United States of America against Rev. Charles A. Briggs, D.D., be, and the same is hereby reversed, and the case is remanded to the Presbytery of New York for a new trial, with directions to said Presbytery to proceed to pass upon and determine the sufficiency of the charges and specifications in form and legal effect, and to permit the prosecuting committee to amend the specifications or charges, not changing the general nature of the same, if, in the furtherance of justice, it be necessary to amend, so that the case may be brought to issue and tried on the merits thereof as speedily as may be practicable.

And it is further ordered, that the Stated Clerk of the General Assembly return the record and certify the proceedings had thereon with the necessary papers relating thereto, to the Presbytery of New York.

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